



WEB COPY

W.P.No.16620 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and**

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.16620 of 2019

T.Rajasekaran

... Petitioner

Vs.

1. The District Collector,
Kancheepuram District,
Kancheepuram.

2. The Tahsildar,
Sholinganallur Taluk Office,
Sholinganallur, Chennai – 600 119.

3. The JPR Educational Trust,
Rep. by its Chairman,
Semancherry, Chennai – 600 119.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the official respondents 1 and 2 to remove the encroachment made by the 3rd respondent in the Cart Track bearing SF Nos.356, 357, 365, 366, 367, 368, 371, 373, 380, 381, 382, 383 passing through patta lands in reach Thalambur Village, Sholinganallur Taluk in Kancheepuram District and also in the petitioner land drainage pipe line laid by the 3rd respondent comprised in Survey No.361/2 (Survey Nos.367/2B and 2C) in



Semmancheri Village, Sholinganallur Taluk, Kancheepuram District by giving effect to the proceeding of the District Collector dated 01.04.2016, 12.07.2016.

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For Petitioner	: M/s.S.Udayakumar
For R1 & R2	: Mr.A.Selvendran, Special Government Pleader
For R3	: Mr.L.Gokul Raj, for Mr.Hari Radhakrishnan

ORDER

(Order of the Court was made by **K.RAJASEKAR, J.**)

The Writ Petition has been directing the official respondents 1 and 2 to remove the encroachment made by the 3rd respondent in the Cart Track bearing Survey Nos.356, 357, 365, 366, 367, 368, 371, 373, 380, 381, 382, 383 passing through patta lands in reach Thalambur Village, Sholinanallur Taluk in Kancheepuram District and also in the petitioner land drainage pipe line laid by the 3rd respondent comprised in Survey No.361/2 (Survey Nos.367/2B and 2C) in Semmancheri Village, Sholinganallur Taluk, Kancheepuram District by giving effect to the proceeding of the District Collector dated 01.04.2016 and 12.07.2016.

2. The facts leading to the filing of this Writ Petition is as follows:-

2.1 The writ petitioner herein, is having lands in Survey No.367/2B,



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367/2C on the Semmancherry Village, Solinganallur Taluk, Kancheepuram District. This land is adjacent to the lands belongs to the 3rd respondent herein comprised in Survey Nos.365 to 368, 356, 357, 371, 382 and 383. The writ petitioner filed a Writ Petition No.10328 of 2015 seeking mandamus, directing the respondents to remove the encroachment made by the petitioner herein on the common passage/ Cart Track (vandi pathai) adjacent to the fourth respondent's property and to remove the drainage pipeline put up underneath the fourth respondent's land. The Division Bench of this Court by Order dated 09.04.2015 has directed the Government Authorities to consider his representation, dated 27.12.2014 and to pass Order on merits with regard to his grievance.

2.2 Based on the above direction, the District Collector, Kancheepuram has initiated an enquiry and after hearing both sides, he has held that the 3rd respondent herein has encroached a Cart Track/ passage leading from Thalampur village to Semmancherry main road, hence ordered for removal of encroachment and to restore it into its original position. Subsequently, the 3rd respondent has filed a Civil Suit, seeking declaration to declare the Order of the District Collector as 'null and void'. The 3rd respondent has also filed an appeal



before the District Collector, which was also dismissed by the order dated 12.07.2016, stating the very same grounds. After dismissal of the said appeal, the 3rd respondent has filed a Writ Petition in W.P.No.33955 of 2019 challenging the order passed by the Additional Chief Secretary / Commissioner of Land Administration, Chepauk, Chennai in RC.No.T1/14093/2016 dated 07.09.2018. This Court vide order dated 05.01.2024 had dismissed the said Writ Petition. The relevant paragraphs are extracted hereunder:-

*“ 22. In this case, the petitioner has filed a suit in the year 2016 challenging the Order passed by the District Collector under section 10 of the Land Encroachment Act, which squarely falls within the ambit of section 14 of the Act. Hence the suit filed by the petitioner herein is liable to be stricken off. We hope the respondent would take appropriate steps as directed by this Court as early in the year 2018 in the judgment of **State of Tamil Nadu and Others vs. S. Venkatachalam and Others** cited supra.*

23. Further, the petitioner herein has filed a Statutory appeal against the Order of the District Collector, which is also dismissed by the Land Commissioner for the reason indicated supra in earlier paragraphs, and confirmed the Order of the District Collector, hence this Court is of the view that the relief claimed by the petitioner in this writ petition is not having any merits, the same is liable to be dismissed.”

3. Considering the fact that this Court has already dismissed the Writ Petition in W.P.No.33955 of 2019 filed by the 3rd respondent herein and directed the respondents to take steps, it would be appropriate that the respondents 1 and 2 are directed to remove the encroachments made by the



3rd respondent herein, within a period of eight weeks from the date of receipt of a copy of this order.

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4. Accordingly, the Writ Petition stands allowed. No costs.

(S.M.S.,J.) (K.R.S.,J.)
19.02.2024

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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