



WP.No.17671 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN

THILAKAVADI

W.P.No.17671 of 2024

J.Santhi
W/o.Jagadeesan

... Petitioner

Vs.

1. The District Collector
Thiruvallur District
Thiruvallur
Pin - 602 001.
2. The Tahsildar
Ponneri Taluk
Ponneri - 601 204.
3. The Commissioner
Ponneri Municipality
Ponneri - 601 204.
4. Ellammal
W/o.Arjunan
5. Murugesan

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S/o.Arjunan

... Respondents

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Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents 1 to 3 to take all necessary steps to immediately remove the encroachment by way of building construction put up by the respondents 4 and 5 upon the public street / salai in S.No.372 at Thiruvoyarpadi Village, Hamlet of Ponneri Group Revenue Village, in Ponneri Taluk, Thiruvallur District.

For Petitioner : Mr.R.Krishnaswamy

For Respondents : Mr.P.Balathandayutham
Special Government Pleader

ORDER

[Order of the Court was made by M.SUNDAR, J.,]

This order will now dispose of the captioned 'Writ Petition' ['WP' for the sake of brevity].

2. Mr.R.Krishnaswamy, learned counsel on record for writ petitioner is before us.

3. Adverting to a representation from the writ petitioner dated



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19.02.2024, learned counsel submitted that there is alleged encroachment in 'S.No.372 at Thiruvoyarpadi Village, Hamlet of Ponneri Group Revenue Village, in Ponneri Taluk, Thiruvallur District' [hereinafter 'said land' for the sake of convenience and clarity] by R4 and R5.

4. According to the Petitioner, she is the absolute owner of a house property at Samarapuri Mudali Street, Thiruvoyarpadi, Ponneri, Ponneri Taluk, Thiruvallur District measuring 1089 square feet and also an extent of 544.5 square feet, i.e., in all 1633.5 square feet, (Hectare 0.02.0 Ares) comprised in G.R.S.No.373/6 purchased from its original owner under Sale Deed dated 04.02.2004 registered as Document Number 291 of 2004 on the file of the SRO at Ponneri. While so, after giving the extent of 544.5 square feet on the east, the petitioner had put up a brick built R.C.C Terraced building upon the site measuring 1089 square feet comprised in G.R Survey No.373/6-part. It is submitted by the petitioner that in the south of her property referred above, there is a street running from east to west, namely Kulakkarai Street comprised in S.No.372. Further, in S.No.374 there is a pond and in and around the said pond, that is on all the four directions of



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the said pond a Street is running called Kulakkarai street. The classification of the land in Survey Nos.372 as well as 374 are only street commonly called Vandi Battai as per the Revenue records. While so one Ellammal, wife of Arjunan, the 4th Respondent herein and Murugesan, son of Arjunan, the 5th Respondent herein, had unlawfully and illegally trespassed into a portion of the said Salai/Street in S.No.372 and started putting up unlawful constructions, thereby restraining the petitioner's right of access to the said street on the south and also preventing the entire public from using the said street. While so, when confronted in this regard, the 5th Respondent had stated that he has got some patta in respect of the land, that too in S.No.374 and that therefore he has got every right to put up such construction upon the Street/Salai in S.No.372. It is submitted by the Petitioner that as the very revenue classification of the land in S.No.372 and 374 are 'Salai' i.e., Street, those lands are objectionable Poramboke lands, over which no assignments can be given even by the Government.

5.It is further submitted by the Petitioner that even as per the provisions of the Tamil Nadu Country and Town Planning Act, the 3rd



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Respondent is legally bound to call upon the Respondents 4 and 5 to produce any plan approval for such a building construction and in the absence of any such building plan approval and planning permit, it is the duty of the 3rd Respondent to take all the necessary actions/steps under the provisions of the said Tamil Nadu Country and Town Planning Act against Respondents 4 and 5 initially to lock and seal the premises and then to demolish such unlawful constructions upon such land. The Petitioner submits that the 5th Respondent is working as a part-time driver in the Revenue Department at Ponneri and that is why, in spite of the Petitioner's personal request made to the Revenue Department, no action has been taken. The petitioner has sent a representation dated 19.02.2024 to Respondents 1 to 3 to take all necessary legal actions against Respondents 4 and 5 so as to remove the encroachment made by them upon the Public Street/Salai in S.No.372 at Thiruvoyarpadi Village, hamlet of Ponneri Revenue Village in Ponneri Taluk, Thiruvallur District. Even though Respondents 1 to 3 have acknowledged the receipt of such representation on 20.02.2024 itself, so for they have not taken any action in this regard.



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6. Issue notice to the official respondents.

7. Mr.P.Balathandayutham, learned Special Government Pleader accepts notice for respondents 1 to 3.

8. By consent of learned counsel for the petitioner and the learned Special Government Pleader for the respondents 1 to 3, the present writ petition is taken up for final disposal.

9. The learned Special Government Pleader submitted that G.O.(Ms).No.64, Revenue and Disaster Management Department, Land Disposal Wing, dated 08.02.2022 was issued by the Government of Tamil Nadu, wherein and whereby, Divisional Monitoring committee, District Monitoring Committee and State Steering Committee have been constituted *inter alia* for a single point reporting / monitoring system qua Government lands from encroachments and in compliance with the orders of Hon'ble Courts for monitoring the action taken for eviction of encroachments in Government lands with priority given to Water bodies.



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10. In the light of the above, we deem it appropriate to refer the subject matter to the Divisional Monitoring Committee headed by Revenue Divisional Officer (RDO), Ponneri, in the light of G.O.(Ms)No.64, Revenue and Disaster Management Department, Land Disposal Wing, dated 08.02.2022.

11. This Court directs the jurisdictional Divisional Monitoring Committee to examine if there is encroachment in the said land. The Divisional Monitoring Committee shall also ensure that adequate and sufficient opportunity is given to the alleged encroachers and all persons concerned. To be noted, all the rights and contentions of alleged encroachers are preserved for being raised before the Committee concerned which shall consider the same on its own merits and in accordance with law untrammelled by this proceedings in this Court.

12. The Divisional Monitoring Committee qua G.O.(Ms)No.64, Revenue and Disaster Management Department, Land Disposal Wing, dated 08.02.2022, shall (if it comes to the conclusion that there is encroachment) report the encroachment for further action (for removal of encroachment which again shall be after giving adequate and ample opportunity to alleged



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encroachers).

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13. It is open to the WP petitioner and or anyone concerned with this matter to come to this Court on the same issue even with a similar / same prayer if there are any change of circumstances.

14. We make it clear that we have not expressed any view or opinion as to whether there is encroachment or not in the said land as it turns on facts and it is for the Divisional Monitoring Committee to decide the matter on its own merits.

15. Captioned WP is disposed of with the aforementioned observations and directives in the aforesaid manner. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)

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Index : Yes / No

Speaking / Non-speaking order

Neutral Citation : Yes / No

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M.SUNDAR, J.,
and

K.GOVINDARAJAN THILAKAVADI, J.,

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