



WEB COPY



W.P.No.17128 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN

THILAKAVADI

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1. R.Rajagopal
S/o.Ramasamy
2. D.Vellaiyan
S/o.Duraisamy
3. K.Thanvavel
S/o.Kannapoyan
4. A.Gopal
S/o.Anumanthan
5. R.Valarmathi
W/o.Rajendran

... petitioners

Vs.

1. The District Collector
Salem District, Salem.
2. The Tahsildhar
Gangavalli Taluka
Salem District.



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3. The Village Administrative Officer
Moolapudhur, Tagarapudur Post
Gangavalli Taluka, Salem District.
4. The Assistant Director
Block Development - Panchayaths
Salem.
5. The Block Development Officer
Gangavalli Block, Gengavalli
Salem District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to remove the encroachments made in Survey No.333/1 Part (Old Survey No.502/3) of Kondayampalli Village, Gengavalli Taluka, Salem District which is classified as Pathway in the revenue records, on the basis of the representation of the petitioners dated 12.04.2024 within a time frame.

For Petitioners : Mr.K.A.Mariappan

For Respondents : Mr.P.Balathandayutham

Special Government Pleader

for R1 to R4

Mr.S.J.Mohamed Sathik

Government Advocate, for R5



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ORDER

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[Order of the Court was made by K.GOVINDARAJAN THILAKAVADI, J.,]

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

2. Mr.K.A.Mariappan, learned counsel on record for writ petitioners is before us.

3. Adverting to a representation from the writ petitioners dated 12.04.2024, learned counsel submitted that there is alleged encroachment in 'Survey No.333/1 Part (Old Survey No.502/3) of Kondayampalli Village, Gengavalli Taluka, Salem District' [hereinafter 'said land' for the sake of convenience and clarity] by some individuals, who have not been made parties to this writ petition.

4. According to the petitioners, they are the permanent residents of Moolapudhur Village of Gengavalli Taluka of Salem District and are having their own temple known as "Kaliyamman Temple" situated in



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Survey No.333/1 part, Old Survey No.502/3 of Moolapudhur Village.

The petitioners used to celebrate the Tamil Aadi festival every year. They were using a 40 feet wide road leading to the temple which is now reduced to 20 feet wide road due to the encroachments made by the house owners on both sides of the road. Hence, the petitioners and other worshipers are finding it difficult to cross the said street during the festival time. Hence, the petitioners submitted a representation to the official respondents for removal of encroachments made in the said street. Though the 4th respondent forwarded the representation of the petitioners to the 5th respondent (Block Development Officer) for conducting field survey and to take appropriate action for removal of encroachments vide memorandum in Na.Ka.No.2334/2024/A9 dated 08.05.2024, which was communicated to the 1st petitioner herein, however, no action was taken so far. Hence, the writ petitioners were constrained to file the above writ petition seeking for issuance of Writ of Mandamus, directing the respondents to remove the encroachments made in Survey No.333/1 Part (old Survey No.502/3) of Kondayampalli Village, Gengavalli Taluka, Salem District which is classified as pathway in the revenue records.



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5. Issue notice to the official respondents.

6. Mr.P.Balathandayutham, learned Special Government Pleader accepts notice for respondents 1 to 4 and Mr.S.J.Mohamed Sathik, learned Government Advocate accepts notice for R5.

7. By consent of learned counsel for the petitioner, the learned Special Government Pleader for the respondents 1 to 4 and learned Government Advocate for the 5th respondent the present writ petition is taken up for final disposal.

8. 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.

9. In the light of the above, we deem it appropriate to refer the subject matter to the Divisional Monitoring Committee headed by



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Revenue Divisional Officer (RDO), Attur, Salem District, in the light of G.O.(Ms)No.64, Revenue and Disaster Management Department, Land Disposal Wing, dated 08.02.2022.

10. 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.

11. 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 encroachers).



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12. It is open to the WP petitioners 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.

13. 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.

14. 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
Speaking
Neutral Citation : Yes
mk/vsn



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To

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M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

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