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W.P. No. 19299 of 2024

IN THE HIGH COURT OF JUDICATRE AT MADRAS

DATED: 18.07.2024

CORAM

THE HON'BLE MR. JUSTICE M. SUNDAR

AND

THE HON'BLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

W.P. No. 19299 of 2024

M. Kanaga

..Petitioner

Vs.

1. The District Collector,
Thiruvallur District,
PIN – 602 001.
2. The Tahsildar,
Thiruvallur Taluka,
Thiruvallur District,
PIN – 602 001.
3. T. Vasu

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the 1st and 2nd respondents to consider petitioner's representation dated 16.05.2024 to remove encroachment (concrete toilet structure) put up by the 3rd respondent at the Survey No. 447/37 at Vengal Village, Thiruvallur Taluka.



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For Petitioner :: Mr.N. Suriyamuthu
For Respondents :: Mr.P. Balathandayutham,
Special Govt. Pleader for
R1 & R2

ORDER

(Made by **K. GOVINDARAJAN THILAKAVADI,J.**)

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

2. Mr.N. Suriyamuthu, learned counsel on record for writ petitioner is before us.

3. Adverting to a representation from the writ petitioner dated 16.05.2024, learned counsel submitted that there is alleged encroachment on public pathway in Survey No. 433/37, at Vengal Village, Thiruvallur Taluka in the form of concrete toilet structure[hereinafter 'said land' for the sake of convenience and clarity] by R3. To be noted, R3 is private respondent.

4. According to the petitioner, he is a resident of Zamindar Street, Vengal Village wherein Survey No. 433/37 (extent of 147 feet in length and 7.5 feet in breadth) has been categorized as public pathway and used by the local people for decades together. That being so, the grievance of the



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petitioner is that part of the pathway has been encroached upon by the 3rd respondent by putting up a concrete structure thereby causing inconvenience to the public. According to the petitioner, in this regard, he had lodged a complaint before the Vengal Police Station on 29.07.2020 vide CSR No. 377/2020. While so, the 3rd respondent had instituted a suit in O.S. NO. 66 of 2020 against the petitioner before the Additional District Munsif Court, Thiruvallur seeking permanent injunction and peaceful possession. However, the suit came to be dismissed by judgment dated 05.03.2024. Even thereafter, the encroachment made by the 3rd respondent has not been removed and he continues to use the same. Hence, the petitioner submitted a representation dated 16.05.2024 to the 1st and 2nd respondents to remove the encroachment made by the 3rd respondent. However, no action has been taken till date. Hence, the present writ petition.

5. Considering the above circumstances, we are of the view that the captioned WP can be disposed of by ordering notice to official respondents (R1 & R2) and putting in a safety valve / adequate protection qua private respondent i.e., R3.

6. Issue notice to official respondents.



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7. Mr.P. Balathandayutham, learned Special Government Pleader accepts notice on behalf of respondents 1 and 2.

8. With the consent of both sides, main WP was taken up for final disposal.

9. It was submitted by learned Special Government Pleader that G.O.(Ms)No.64, Revenue and Disaster Management Department, Land Disposal Wing, dated 08.02.2022 has been put in place, 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.

10. In the light of the narrative thus far, we deem it appropriate to refer the matter to the Divisional Monitoring Committee headed by Revenue Divisional Officer (RDO), Thiruvallur Distirct 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 qua said land. The Divisional Monitoring Committee shall also ensure that adequate and ample



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opportunity is given to persons concerned more particularly alleged encroacher R3 before taking a call. In this regard, we are acutely conscious that the matter is being disposed of in Admission Board without notice to the alleged encroacher and therefore, this safety valve is put in place. To be noted, all the rights and contentions of alleged encroacher is 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 encroacher).

13. It is open to the writ 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.



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14. We make it clear that we have not expressed any view or opinion as to whether there is encroachment or not qua said land as it turns on facts and it is for the Divisional Monitoring Committee to take a call on this aspect of the matter.

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

nv

(M.S.J.) (K.G.T.J.)
18.07.2024

To

1. The District Collector,
Thiruvallur District,
PIN – 602 001.

<https://www.mhc.tn.gov.in/judis> 2. The Tahsildar,



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Thiruvallur Taluka,
Thiruvallur District,
PIN – 602 001.

3. The Revenue Divisional Officer,
Thiruvallur District.

M. SUNDAR, J.

AND

K. GOVINDARAJAN THILAKAVADI, J.

nv



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