



WEB COPY

W.P.No.17927 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN

THILAKAVADI

W.P.No.17927 of 2024

G.Ravi

... Petitioner

Vs.

1. The District Collector
O/o.Ariyalur District
Ariyalur
2. The Tahsildar
O/o.Tahsildar
Andimadam Taluk
Ariyalur District
3. The Block Development Officer (Village Administration)
Block Development Office
Andimadam Taluk
Ariyalur District
4. Panchamoorthy
5. Anjammal

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6. Balaiya

7. Sumathi

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing Respondents 1 to 3 to consider the petitioner representation dated 08.07.2023 for executing the order of third respondent to evict Respondents 4 to 7 as per order in Na.Ka.No.A2/1006/2016 dated 03.05.2019.

For Petitioner : Mr.A.Murthy

For Respondents : Mr.P.Balathandayudham
Spl. Govt. Pleader for R1 & R2

Mr.U.Baranidharan
Addl. Government Pleader for R3

ORDER

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

Captioned writ petition pertains to alleged encroachment in 'Government Poramboke [வடிகால் வாரி / நீர்நிலை] comprised in S.No.233/6 admeasuring 1.75.5 ares in Koovathur (North) Village, Andimadam Taluk, Ariyalur District' [hereinafter 'said land' for the sake of convenience and clarity].



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2. Mr.A. Murthy, learned counsel for writ petitioner, who is before us, submitted that writ petitioner has sent a representation dated 08.07.2023 to R1 [The District Collector, O/o.Ariyalur District, Ariyalur], R2 [The Tahsildar, O/o.Tahsildar, Andimadam Taluk, Ariyalur District] and R3 [The Block Development Officer (Village Administration), Block Development Office, Andimadam Taluk, Ariyalur District], thereafter R3 made 'proceedings bearing reference ந.க.ஆ2/1006/2016 signed by R3 on 03.05.2019' [hereinafter 'said notice' for the sake of convenience] calling upon the alleged encroachers to remove the encroachments but there has been inaction thereafter too.

3. Issue notice to official respondents i.e., issue notice regarding admission.

4. Mr.P.Balathandayudham, learned Special Government Pleader accepts notice for R1 and R2 and Mr.U.Baranidharan, learned Additional Government Pleader accepts notice for R3. Mr.P.Balathandayudham, learned Special Government Pleader represents Mr.U.Baranidharan for R3 also.



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5. Considering the limited legal perimeter within which the captioned writ petition would perambulate, with the consent of learned counsel on both sides, main writ petition was taken in the Admission Board. We are acutely conscious that R4 to R7 (private respondents) are not before us. Therefore, we will be putting in a safety valve as regards R4 to R7 infra.

6. On accepting notice, learned State counsel, on instructions, submits that the aforementioned said notice has been issued under Section 131 (2) of 'The Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994)' [hereinafter 'Panchayats Act' for the sake of brevity and convenience]. Adverting to sub-section (2) of Section 131 of Panchayats Act, learned State counsel submitted that such a notice can be issued either by the 'Executive Authority' or by the 'Commissioner' and in this case, it has been issued by the Commissioner. Learned State counsel submits that the term 'Commissioner' has been defined vide 2(6) of Panchayats Act and R3 is Commissioner qua Government vide Section 85 of Panchayats Act. To be noted, 'Government' is also defined under Section 2(12) as the State of Tamil Nadu. This submission of learned State counsel is recorded. This means



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that said notice has been issued by R3 in his capacity as Commissioner.

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7. A careful perusal of sub-section (2) of Section 131 makes it clear that on being called upon to remove encroachments, if removal of encroachment is not secured within the period specified in the communication, the Revenue Department shall initiate proceedings under 'the Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity}.

8. This Court has repeatedly held that said 1905 Act is a self-contained Code as it provides for alleged encroachers being show-caused vide Section 7 followed by an order under Section 6 which by itself is appealable under Section 10 and also revisable under Section 10-A. This means that if the alleged encroachments have not been removed until today, R4 to R7, who have been put on notice, vide said notice of R3 will now be show-caused vide Section 7 of said 1905 Act. This is the safety valve qua R4 to R7 (private respondents) alluded to supra. As R4 to R7 are to be show-caused vide Section 7 of said 1905 Act, all the rights and contentions of R4 to R7 are preserved.

9. Recording the stated position of the State counsel that the said



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notice issued by R3 would be carried to its logical end and also the specific submission as regards R4 to R7 who figure as noticees in said notice, we dispose of the captioned writ petition recording the stated position of the State counsel. The respondents i.e., R1 to R3 will do well to carry the matter to its logical end as expeditiously as the business of R1 to R3 would permit.

Captioned writ petition disposed of in the aforesaid manner. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
08.07.2024

Index : Yes / No
Speaking / Non-speaking order
Neutral Citation : Yes / No
gpa



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and
K.GOVINDARAJAN THILAKAVADI, J.,

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