



WEB COPY

W.P. No.32928 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN
and
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P. No.32928 of 2019

G. Balasubramaniam

Petitioner

v

1 The District Collector
Erode District

2 The District Revenue Officer
Gobichettipalayam
Erode District

3 Mahavishnu

4 Kalyani

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the second respondent to pass orders on the petitioner's representation dated 13.05.2019 regarding the encroachment made in the public pathway, specifically in S.No.1887/1 and against the encroachment made in S.No.1886/20 which is registered as vacant Government land in the Revenue records.

For petitioner Mr. V. Balamurugane

For RR 1 & 2 Mr. A. Selvendran
Special Government Pleader

For RR 3 & 4 Mr. A. Sundaravadhanan



WEB COPY

W.P. No.32928 of 2019



ORDER

(made by S. VAIDYANATHAN, J.)

The petitioner seeks a direction to the second respondent to pass orders on his representation dated 13.05.2019 regarding the removal of encroachment made in the public pathway, specifically in S.No.1887/1 and the encroachment made in Government poramboke in S.No.1886/20 which is registered as a vacant site in the Revenue records.

2 At the outset, it is worth pointing out that this is the fourth round of writ petition in respect of the same subject matter.

3 The petitioner's grievance against the private respondents, as culled out from his affidavit, is three-fold. The first is that the private respondents have encroached upon the public pathway in R.S. No.1887/1 (Old S.No.1390) in Anthiyur Village. The second is that they have encroached upon the Government poramboke (vacant site) in R.S. No.1886/20 in Anthiyur Village. The last is that they have obtained free house site patta in the name of their family members for the lands in R.S. No.1886/18, 1887/6A, 1887/6B, 1887/6C by suppressing the factum of getting employment in the Central Government.

<https://www.mhc.tn.gov.in/judis>



WEB COPY

4 In this regard, in response to the petitioner's representation dated 23.01.2017 to the Revenue Tahsildar, Anthiyur, an enquiry was conducted and eviction order also came to be passed on 16.02.2017, challenging which, the private respondents filed W.P. No.4858 of 2017, which was disposed of with an observation that if aggrieved, the private respondents can approach the appellate authority under Section 10 of the Tamil Nadu Land Encroachment Act, 1905.

5 Accordingly, the private respondents preferred an appeal before the first respondent, in which, on 01.07.2017, it was ordered to evict the encroachment in the public pathway in R.S. No.1887/1 and it was further ordered that an enquiry be made *qua* eligibility of persons for getting free house site patta.

6 Pursuant thereto, the encroachment in the public pathway was partially removed and challenging the said eviction, the private respondents preferred W.P. Nos.18032 and 18033 of 2017, which were disposed of on 14.07.2017, granting liberty to the private respondents to prefer a revision under Section 10-A, *ibid*.



WEB COPY

7 In pursuance thereof, the private respondents filed a revision before the Commissioner of Land Administration, who, *vide* order dated 10.10.2017, remanded the issue to the first respondent for fresh enquiry.

8 Accordingly, the first respondent conducted enquiry on 17.11.2017 and 27.11.2017, during which, the private respondents informed the first respondent about the filing of a suit in O.S.No.282 of 2017 before the Subordinate Court, Bhavani, against the first respondent and the Tahsildar, seeking declaration of title and permanent injunction and citing the pendency of the suit, the enquiry was not proceeded further.

9 Aggrieved, citing Section 14, *ibid.*, as per which, the proceedings or order under the Tamil Nadu Land Encroachment Act shall not be called in question in any Court and no injunction shall be granted by any Court in respect of any action taken by any authority in pursuance of any powers conferred under the said Act, the petitioner addressed a representation dated 27.08.2018 to the first respondent to proceed with the enquiry, but, to no avail.

10 Hence, the petitioner filed W.P. No.30082 of 2018 seeking a direction to the second respondent to expedite the appeal, in which, this Court, by order dated 13.12.2018, disposed of the writ petition by recording the



submission of the learned Government Advocate that enquiry, if any, will be completed expeditiously in accordance with law.

WEB COPY

11 In pursuance thereof, the second respondent, after calling the petitioner for enquiry on 17.11.2017 and 27.11.2017 and without calling him for enquiry on 07.05.2018 and 09.07.2018, passed an order on 09.07.2018 *qua* grant of free house site patta alone and remained silent about the encroachment made in the public pathway and Government poramboke (vacant site).

12 Hence, the petitioner addressed a representation dated 13.05.2019 as stated in the opening paragraph, seeking consideration of which, this writ petition has been filed.

13 Today, when the matter was taken up for hearing, the learned Special Government Pleader, produced before this Court, a copy of the communication dated 29.01.2024 addressed by the Tahsildar, Anthiyur Taluk, to him, the relevant portion of which is extracted below:

“2. In the writ, the petitioner has prayed to direct the 2nd respondent to pass orders in the representation dated 13.05.2019 regarding the encroachment made in the public pathway specifically in S.Nos.1887/1 and against the encroachment made in S.No.1886/20 which is registered as vacant Government land in the revenue records.....

<https://www.mhc.tn.gov.in/judis>

3. In this connection, I am to inform that necessary orders have been issued by the District Collector, Erode, in the proceedings



WEB COPY

W.P. No.32928 of 2017



Mu.Mu.4953/2017 Oo2 dated 09.07.2019 to remove the encroachment and regularise the portion of the land for issue of house site patta on collection of land cost. According to the orders of the District Collector, Erode District, Erode, the entire encroachment in the Natham land R.S. No.1887/1 – 00645 sq. ft. classified as Government poramboke pathway was removed on 23.01.2020 by the Block Development Officer, Anthiyur. With regard to the another natham land bearing R.S. No.1887/20 – 00256 sq. ft. classified as Government Poramboke – vacant site is occupied by one Thiru. Mahavishnu, S/o Kailasam and necessary action is being taken to regularise the encroachment and issuance the house site patta to the encroacher.”

14 As already stated in paragraph 3, *supra*, the petitioner's grievance is three-fold. At the cost of repetition, they are encroachment in public pathway in R.S. No.1887/1, encroachment in the Government poramboke (vacant site) in R.S. No.1886/20 and obtainment of free house site patta for the lands in R.S. No.1886/18, 1887/6A, 1887/6B, 1887/6C by suppressing the factum of employment in the Central Government.

15 From a perusal of the aforesaid communication of the Tahsildar, it is clear that with regard to the petitioner's grievance that free house site patta has been issued to the private respondents, notwithstanding the factum of employment in the Central Government, orders have been passed to remove the encroachment and regularise the portion of the land for issue of house site patta on collection of land cost. Secondly, the encroachment made in the public pathway has been removed on 23.01.2020. Thus, what remains is the removal of encroachment in the Government poramboke (vacant site) in R.S.



WEB COPY

communication). As could be seen from the communication of the Tahsildar, extracted above, necessary action is being taken to regularise the said encroachment and issue house site patta to the encroacher.

16 In such perspective of the matter, we direct the official respondents to take the issue, *i.e.*, removal of encroachment in the Government poramboke (vacant site) in R.S. No.1886/20, to its logical conclusion, at any rate, by 15.06.2024, by passing appropriate orders.

With the above direction, this writ petition stands disposed of. Costs made easy.

(S.V.N., J.) (K.R.S., J.)
02.02.2024

cad



W.P. No.32928 of 2019



S. VAIDYANATHAN, J.

and

K. RAJASEKAR., J.

cad

To

- 1 The District Collector
Erode District
- 2 The District Revenue Officer
Gobichettipalayam
Erode District

W.P. No.32928 of 2019

02.02.2024