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W.P. No.32361 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.32361 of 2019

A.R. Natraj

Petitioner

v

- 1 The Revenue Divisional Officer
RDO Office
Erode 638 001
- 2 The Tahsildar
Taluk Office
Erode 638 001
- 3 The Revenue Tahsildar
Erode
Erode District
- 4 The Land Revenue Inspector
Erode North
Erode
- 5 The Village Administrative Officer
Karai Ellaipaylayam
Elavamalai
Erode
- 6 Chinnappan
- 7 Periyasamy
- 8 Nallasivam



10

Appukutty

11

Karuppanna Gounder

Respondents

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Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the first respondent to implement the order passed *vide* his proceedings in Na.Ka.No.3340/2017 AA1 dated 21.07.2017 and directing the third respondent to take action to remove the encroachments made in the Government lands classified as “Nilavyal cart track and Nilavyal Odai” stream and cart track pathway in S.F. Nos.94/19, 95/14 and 96 at Karai Ellampalaiyam Village and S.Nos.220 and 221 at Elavammalai Village, *vide* his proceedings in Na.Ka.No.3340/2017/AA 1 dated 21.07.2017 by considering the petitioner's representation dated 09.04.2019.

For petitioner	Mr. M. Guruprasad – Did not appear
For RR 1 to 5	Mr. A. Selvendran Special Government Pleader
For RR 6-11	Notice dispensed with

ORDER

(made by S. VAIDYANATHAN, J.)

The gist of the petitioner's prayer is removal of encroachment from a cart track (pathway) and a stream in Karai Ellampalayam Village and Elavammalai Village by considering his representation dated 09.04.2019.



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2 The petitioner's case, as culled out from his affidavit, is as under:

2.1 The lands in S.F. Nos.94/19, 95/14 and 96 at Karai Ellampalaiyam Village and the lands in S.Nos.220 and 221 at Elavamalayam Village, Erode Taluk, belong to the Government and they are classified as cart track (pathway) and odai (stream), respectively.

2.2 Since the owners of the properties adjacent to the aforesaid Government lands, presumably the private respondents, have made encroachments on the said Government lands, the petitioner addressed a representation dated 07.03.2017 to the second respondent seeking removal of the said encroachments.

2.3 As no action was taken on his aforesaid representation, the petitioner preferred an appeal before the first respondent on 04.07.2017 seeking removal of encroachments. Pursuant thereto, after conducting an enquiry in which the adjacent land owners also admitted the encroachments made by them, and concluding that the adjacent land owners had encroachment upon the Government lands, the first respondent, *vide* proceedings dated 21.07.2017, directed the third respondent to issue notice to

the encroachers and the petitioner, measure the lands, mark the metes and



bounds and remove encroachments, if any, without causing damage to trees, if any, and report the same to him.

2.4 Since no action was taken by the third respondent, the petitioner submitted a petition to the third respondent, in response to which, the third respondent issued a proceedings dated 27.09.2018 stating that due to the presence of trees and bushes and flowing water, metes and bounds could not be marked.

2.5 Inasmuch as no progress was made even after seven months from the date of the aforesaid proceedings, the petitioner submitted another representation dated 09.04.2019 to the first respondent seeking a direction to the third respondent to implement the order of the first respondent.

2.6 Finding no response to his representation dated 09.04.2019, the petitioner has filed this writ petition seeking removal of the encroachments made in the Government lands, viz., cart track (pathway) and odai (stream) by considering his representation dated 09.04.2019.

3 Heard the learned Special Government Pleader appearing for the official respondents and perused the materials available on record.



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4 It is borne out of records that the first respondent has, *vide* proceedings dated 21.07.2017, directed the third respondent to remove encroachments made in the Government lands set out in paragraph no.2.1, *supra*, by protecting the trees and following the due process of law and the third respondent also has, *vide* proceedings dated 27.09.2018, has stated that due to presence of trees and bushes and flowing water, he could not survey the land and mark the metes and bounds.

5 Further, it is worth pointing out that the Supreme Court has, time and again, frowned upon encroachments made in water bodies and judgments in this regard are a legion. Suffice to allude to the judgment of the Supreme Court in **Sarvepalli Ramaiah v District Collector, Chittoor District and others [(2019) 4 SCC 500]**, wherein, the importance of protecting water bodies has been emphasised. The relevant portion of the said judgment reads thus:

“49. This Court has time and again emphasised the need to retain and restore water bodies and held that water bodies are inalienable land. Land comprised in water bodies cannot be alienated to any person even if it is dry.“
(emphasis supplied)

6 In view of the foregoing discussion, we direct the third respondent to implement the proceedings dated 21.07.2017 of the first respondent within a period of three months from the date of receipt of a copy



of this order by adhering to the decision of a Coordinate Bench of this Court, in which, one of us (SVNJ) was a Member, in **N.Sankar v The Principal Secretary, Town and Country Planning, Government of Tamil Nadu and 3 others [W.P.(MD) No.16120 of 2023 decided on 30.08.2023]**, to avoid disciplinary proceedings being initiated against him.

In fine, this writ petition stands allowed, sans costs. Since no adverse order is passed against respondents 6 to 11, notice to them is dispensed with.

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

cad



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