



WEB COPY

W.P.No.34679 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE K. RAJASEKAR

W.P. No.34679 of 2019
and
W.M.P. No.35430 of 2019

C. Thangaraj S/o. Chinnasamy

... Petitioner

Vs.

1. The District Collector,
Erode District.

2. The Revenue Divisional Officer,
Bhavani Taluk, Erode District.

3. The Tahsildar,
Bhavani Taluk, Erode District.

4. Loganathan S/o. Kittan @ Krishnasamy

5. Sasikala W/o. Loganathan

6. Madheswari W/o. Arumugam

7. Arumugam
Sembanna Nadar

8. Veluchamy S/o. Arumugam

9. Kalpana W/o. Veluchamy
Respondents

.....



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 to 3 to take suitable action for the encroachments committed by the respondents 4 to 9.

For Petitioner : Mr. P. Paramasiva Doss

For Respondents : Mr. A. Selvendran
Special Government Pleader
[for R1 to R3]

Mr. T. Muruga Manickam,
Senior Counsel for
Mrs. Zeenath Begam [for R4 to R9]

ORDER

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

The relief sought for in the present Writ petition is to direct the respondents 1 to 3 to take suitable action against the encroachments made by the respondents 4 to 9.

2. Mr. Paramasiva Doss, the learned counsel for the petitioner would submit that village Natham Poramboke lands are appropriated by few people in that locality. They have encroached upon the Natham Poramboke lands, which is yet to be regulated by the competent authorities under the Revenue Standing orders. Since such encroachments are causing prejudice to the



public good, the present Writ petition came to be instituted.

3. The learned Senior Counsel appearing on behalf of the respondents 4 to 9 would oppose by stating that the petitioner has no locus to question the occupation of the respondents 4 to 9 since the land has been classified as 'Village Natham Poramboke'. The land does not vest with the Government and therefore the authorities cannot conduct an enquiry.

4. RSO 21 deals with Village Natham Poramboke. RSO 21 provides assignment of house site in villages and towns. The procedures for assignment are elaborately enumerated in RSO 21.

5. RSO 26 deals with unauthorized occupation of Government lands. With reference to the allegations made by the petitioner and the counter allegations set out by the respondents 4 to 9, the High Court cannot conduct a roving enquiry. All the issues raised between the parties are required an effective adjudication based on the documents, evidences and by conducting survey and field inspections. The revenue records are to be verified. The authorities competent are bound to regulate the "Grama Natham" lands under the provisions of the Revenue Standing orders.



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6. Article 39(b) – Directive Principles in the Constitution of India stipulate that the ownership and control of the material resources of community are so distributed as best to subserve the common good. Therefore, the State is empowered under the Constitution to regulate the common lands to subserve the public good. While being so, the assignments can be made as a welfare measure in favour of the landless poor persons. Definition for ‘landless poor persons’ are provided under the Revenue Standing Orders.

7. All these observations required an adjudication and enquiries in this regard are to be conducted. The parties are at liberty to submit their explanations along with the documents if any. The competent authorities / official respondents shall conduct an elaborate enquiry by following the procedures and by affording opportunity to all the parties and thereafter initiate all appropriate actions. It is not in dispute that the temples are situated in that locality. Whether the land, belongs to the temple or not, is also to be identified and if so, appropriate actions are to be initiated by forwarding complaints to the competent authorities under the HR & CE Act.



All appropriate actions are directed to be initiated by conducting survey and enquiry by the competent authorities in accordance with law.

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8. The said exercise is directed to be completed within a period of **12 (Twelve) weeks** from the date of receipt of copy of this order.

9. Accordingly, this Writ petition stands disposed of. There shall be no order as to costs. Connected miscellaneous petition is closed.

(S.M.S.J) and (K.R.S.J)
14.02.2024

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
mjs

To

1. The District Collector,
Erode District.
2. The Revenue Divisional Officer,
Bhavani Taluk, Erode District.
3. The Tahsildar,
Bhavani Taluk, Erode District.



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S.M.SUBRAMANIAM, J.
and
K. RAJASEKAR, J.

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