



WP No.35616 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2024

CORAM

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

WP No.35616 of 2024

and

WMP No.38474 of 2024

BASKAR

: Petitioner

Versus

- 1.THE DISTRICT COLLECTOR
RANIPET DISTRICT, RANIPET.
- 2.THE DISTRICT REVENUE OFFICER
ARAKKONAM, RANIPET DISTRICT
- 3.THE COMMISSIONER
ARAKKONAM MUNICIPALITY,
ARAKKONAM- 631 001, RANIPET DISTRICT.
- 4.THE TAHSILDAR
ARAKKONAM TALUK,
ARAKKONAM- 631 001,
RANIPET DISTRICT.
- 5.THE ASSISTANT ENGINEER
WATER RESOURCES DEPARTMENT,
IRRIGATION SECTION ARAKKONAM,
RANIPET DISTRICT.



WP No.35616 of 2024

6.V.SANTHI

: Respondents

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Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 5th Respondent pertaining to the impugned encroachment notice in Lr. No.F.N.34/A.E./Arakkonam/2024 dated 15.11.2024 and quash the same, and consequentially direct the 2nd respondent to consider the petitioners representation dated 21.10.2024 to survey the land and issue patta to the petitioner.

For Petitioner : Mr.G.Jeremiah,
for Mr.S.Gowri Shankar

For Respondents 1 to 5 : Mr.A.Edwin Prabhakar,
State Government Pleader
assisted by Mr.T.K.Saravanan,
Government Advocate

For Respondent No.6 : Mr.I.Murugan

ORDER

(Order of the Court was made
by the Hon'ble Chief Justice)

Petitioner wants the Court to quash the encroachment notice dated 15.11.2024 and also to direct the District Revenue Officer to consider petitioner's representation dated 21.10.2024 to survey the land and issue patta to petitioner.



WP No.35616 of 2024

WEB COPY

2. The fact is, and as stated by the counsel in Court, petitioner is an encroacher. Pursuant to an order passed by this Court in WP No.1190 of 2022 on 15.09.2023, the authorities were directed to take steps with regard to the encroachments in the channel expeditiously, and in accordance with law. The order reads as under:

“We have heard Mr.K.Prem Kumar, learned counsel for the petitioner; Mr.P.Muthukumar, learned State Government Pleader, assisted by Mrs.R.Anitha, learned Special Government Pleader for respondents 1 to 4; and, Mr.G.Jeremiah, learned counsel for respondents 5 to 9.

2. On 18.4.2022, a report is filed by the fourth respondent. As per the report, the field survey was conducted in respect of T.S.No.69, admeasuring 3873 sq.mtr. and the same is a channel. The encroachers from S.Nos.1 to 15 are also enlisted in Form~I. T.S.No.43, admeasuring 806 sq.mtr. is also a channel and the encroachers are identified and enlisted from S.No.16 to 20 in Form-I.

3. It is submitted that a detailed list of encroachers in Form~I is prepared and sent to the Public Works Department at Arakkonam, Ranipet District on 16.3.2022 for removal of illegal encroachment. It is further submitted that the petitioner is also an encroacher.

4. The aforesaid report is dated 18.4.2022. The authorities shall take steps with regard to the encroachments in the channels expeditiously and in accordance with law.

The writ petition is disposed of accordingly.



WEB COPY



WP No.35616 of 2024

*There will be no order as to costs. Consequently,
W.M.P.Nos.20796 and 26979 of 2022 are closed.”*

3. A contempt petition, being Contempt Petition No.2417 of 2024, came to be filed on 19.06.2024 alleging that respondents i.e. the District Collector; the Revenue Divisional Officer; the Tahsildar; and the Assistant Engineer, Public Works Department, Arakkonam, Ranipet District, have wilfully disobeyed the order of this Court dated 15.09.2023. Pursuant to the contempt petition being lodged, respondents started taking action of removing encroachments.

4. The contempt petition came up for admission on 23.08.2024. The Government Advocate took notice on behalf of respondents and sought time to take instructions. Thereafter, on 05.11.2024, notice came to be issued to respondents by observing that prima facie case for contempt has been made out.

5. This morning, we were informed by counsel for petitioner that when this petition was taken up by the Roster Bench, the Roster Bench was



WP No.35616 of 2024

WEB COPY

informed by the State's advocates that the contempt petition referred earlier, is before this Bench for removal of encroachments, which petitioner states should not be removed. In view thereof, the Roster Bench directed petitioner to approach this Court to tag this petition along with the contempt petition.

6. Accordingly, an application was made this morning and we directed the petition to be listed at 3.45 p.m. along with the contempt petition, and also give notice to learned Government Pleader in the meanwhile.

7. Shri.Prabhakar, learned State Government Pleader stated that removal of encroachments has been in progress since morning and six encroachments have been removed. Shri.Prabhakar stated that even petitioner's property is in the process of being removed.

8. Counsel for petitioner stated that petitioner has been living there for three generations and therefore, even though he is an encroacher, his encroachment should not be removed.



WP No.35616 of 2024

WEB COPY

9. We do not accept that submission. Just because petitioner was allowed to remain without the encroachment being removed all these days, does not give petitioner any right. Moreover, admittedly, a report in Form I dated 16.03.2022 under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007 had been filed by the Tahsildar, Arakkonam Taluk, in which 18 encroachments having been made in T.S. Nos.43 and 69, Galivarikandigai Village, are mentioned.

10. Admittedly, thereafter, Form III dated 06.07.2022, has been issued, containing the same list of encroachers. Petitioner features in the list of encroachers. Petitioner states that he has sent detailed objections to the notice on 20.07.2022 and admittedly, the objections came to be rejected by an order dated 06.09.2022. Petitioner states that petitioner had also filed an appeal on 02.08.2022 before the District Revenue Officer, before his objections came to be rejected. It is stated that the appeal is still pending. At the same time, petitioner had also moved the Court by filing a writ petition, which came to be disposed of. Simultaneously, petitioner had also filed an application for grant of patta.



WP No.35616 of 2024

WEB COPY

11. Shir.Prabhakar says that the encroachment falls on a waterbody.

From the copy of “A” Register annexed to the petition, the land appears to be “*battai, kalam, kaalvai*”, which means, “pathway, threshing floor and channel” respectively. Therefore, the question of granting any patta does not arise because petitioner's property lies in the channel.

12. Be that as it may, the fact that petitioner is an encroacher being admitted position, we are unable to grant any relief. In fact, the Court even suggested the petitioner if he would want three to four weeks' time to vacate, it could be considered. The response was silence. Therefore, petition dismissed.

13. At this stage, counsel requests for four weeks' time to vacate, and further undertakes that no extension will be sought. This four weeks' time is granted only for petitioner to remove his personal belongings.

14. Mr.Prabhakar leaves it to the Court.



WP No.35616 of 2024

WEB COPY

15. Undertaking to vacate within four weeks i.e. on or before 24.12.2024 is accepted.

16. If petitioner does not vacate by close of business on 24.12.2024, respondent authorities may immediately take action on the following day itself to evict the petitioner and remove the encroachment.

17. There will be no order as to costs. Consequently, the interim application also stands disposed of.

(K.R.SHRIRAM, CJ.)

(SENTHILKUMAR RAMAMOORTHY, J.)

26.11.2024

Index : Yes/No
Neutral Citation : Yes/No
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WP No.35616 of 2024

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WEB COPY

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WEB COPY



WP No.35616 of 2024

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WP No.35616 of 2024

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