

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.05.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

and

THE HONOURABLE MR.JUSTICE.J.SATHYA NARAYANA PRASAD

W.P.No.12929 of 2022

and

W.M.P.Nos.12421 & 12422 of 2022

G.Karthick

... Petitioner

Vs

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of Revenue & Disaster Management,
Fort St.George, Secretariat,
Chennai – 600 009.
- 2.The State of Tamil Nadu,
rep.by its Secretary,
Department of Public Works,
Fort St.George, Secretariat,
Chennai – 600 009.
- 3.The State of Tamil Nadu,
rep.by its Secretary,
Department of Highways & Minor Ports,
Fort St.George, Secretariat,
Chennai – 600 009.

4.The State of Tamil Nadu,
rep.by its Secretary,
Department of Municipal and Rural Administration,
Fort St.George, Secretariat,
Chennai – 600 009.

5.The State of Tamil Nadu,
rep.by its Secretary,
Department of Home, Prohibition and Excise,
Fort St.George, Secretariat,
Chennai – 600 009.

6.The District Collector,
Tiruvannamalai District.

7.The Superintending Engineer,
Public Works Department,
Tiruvannamalai.

8.The Superintending Engineer,
Highways Department,
Tiruvannamalai.

9.The Block Development Officer,
Tiruvannamalai Block,
(Vengikkal Panchayat)
Tiruvannamalai.

10.The Revenue Divisional Officer,
Tiruvannamalai Division,
Tiruvannamalai District.

11.The Tahsildar,
Tiruvannamalai Taluk,
Tiruvannamalai District.

12.The Commissioner,
Tiruvannamalai Municipality,
Tiruvannamalai District.

13.Mr.A.Rajendran

14.Jeeva Educational Trust,
Rep.by its Managing Trustee
Mr.E.V.Kumaran,
S/o.E.V.Velu
Velu Nagar, Thenmathur Taluk,
Thiruvannamalai.

15.Mr.E.V.Velu,

16.The District Registrar,
Registration Department,
Tiruvannamalai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents No.9 to 12 to remove the encroachment in Old S.No.180/2B, New S.No.253/60, and its Sub-division in S.No.250/60C3 in Vengikkal Village, Tiruvannamalai Taluk, Tiruvannamalai District and its surrounding area.

For Petitioner : Mr.Lourthu Paul Belson

For Respondents :
For R1 to R12 : Mr.J.Ravindran
Additional Advocate General
Assisted by Mr.A.Selvendran
Special Government Pleader

For R16 : Mr.P.Sathish
Additional Government Pleader
For R14 & 15 : Mr.P.Wilson, Senior Advocate

INTERIM ORDER

Writ of Mandamus has been instituted to remove the encroachment in Old Survey No.180/2B, New S.No.253/60 and its sub-division in S.No.250/60C3 in Vengikkal Village, Tiruvannamalai Taluk, Tiruvannamalai District and its surrounding area.

2. The learned counsel for the petitioner mainly contended that the respondents 13 to 15 in collusion with the official respondents have encroached the public land abutting the property belonging to the 13th respondent, a water culvert connecting the town water channel with a river

called “Nochi Eri”. The learned counsel for the petitioner states that during the monsoon season, the flow of water would be overwhelming and any construction over the channel would truncate or disrupt the flow of water and would flood the area.

3. It is contended that no doubt, the 13th respondent, Mr.A.Rajendran was owning a land measuring to the tune of 92½ sq.ft., however, in collusion with the Government Authorities, he could be able to secure patta over and above the land owned by him. In the encroached portion, now, attempts are made to put up the construction, which would cause greater inconvenience to the public at large.

4. It is further contended by the petitioner that the property has been acquired by the respondents 14 and 15 for the purpose of installing a statue or idol of a political leader, who recently passed away, a few years back. The respondents 13 to 15 have not only accommodated the said 215 sq.ft of land for erecting the statue, but an additional 300 sq.ft. of public area has been encroached upon and huge R.C.C. pillars have been erected, adversely

impacting already congested junction. The proposed illegal construction would cause traffic congestion in that locality as lakhs and lakhs of devotees of Arunachaleswarar Temple are using the pathway for “Girivalam”.

5. The learned Senior Counsel appearing on behalf of the respondents 14 and 15 strenuously objected to the petition by stating that absolutely there is no encroachment and the 13th respondent is the owner of the entire property. The 13th respondent being the owner, is entitled to put up construction in the manner known to law. The learned Senior Counsel made a submission that the respondents 13 and 14 is developing the property in accordance with law and there is no irregularity as such, the present writ petition is filed with political motive and further, the petitioner is no way connected with the issue raised and therefore, the petition is to be rejected.

6. The learned Senior Counsel for the 15th respondent further contended that the 15th respondent is no way connected with the subject property.

7. The learned Additional Advocate General appearing on behalf of the official respondents also objected the petition by stating that there is no illegality in the matter of dealing with the claim of the respondents 13 and 14 and further, the writ petition itself is not maintainable on the ground that the petitioner has no locus to file the petition in respect of such issues, where he has no connection at all.

8. Considering the allegations and counter allegations, this Court is of the considered opinion that the petitioner has raised serious allegations regarding the encroachment, which will cause inconvenience to the public at large, more so, the alleged encroachment is a place, which is being used by the lakhs and lakhs of people for “Girivalam” in Tiruvannamalai.

9. Further, it is contended that there is a possibility of heavy traffic congestion, in the event of allowing the construction to be put up in that location and other grounds are also raised regarding the flow of water and would flood the area during the monsoon season.

10. This being the factum established, the District Collector/6th respondent is directed to conduct an inspection, ascertain the facts as on today i.e. 18.05.2022 and file a report in the form of sworn affidavit and made finding, whether there is any encroachment in that locality or not and file the same by tomorrow i.e. on 19.05.2022 at 10:30 a.m. before this Court. Till such time, status-quo shall be maintained.

11. The order to be communicated to the District Collector/6th respondent through email or fax immediately.

18.05.2022

mrn/sp

S.M. SUBRAMANIAM, J.

W.M.P.No.12929 of 2022
in
W.P.No.12955 of 2022

and
J.SATHYA NARAYANA PRASAD, J.

mrn/sp

W.P.No.12929 of 2022
and
W.M.P.No.12421 & 12422 of 2022

18.05.2022