

(2017) 01 MAD CK 0098

In the Madras High Court

Case No : 1046 of 2017 and W M P(MD)No 881 of 2017

P.Thankarajan, & Ors.

APPELLANT

Vs

The District Collector, Kanyakumari District @ Nagercoil, &
Ors.

RESPONDENT

Date of Decision : 23-01-2017

Acts Referred:

Constitution of India, Article 226 -
Power of High Courts to Issue certain writs

Citation : (2017) 01 MAD CK 0098

Hon'ble Judges : A.Selvam, P.Kalaiyaran

Bench : DIVISION BENCH

Advocate : A.Selvam, P.Kalaiyaran

Final Decision : Dismissed

Judgement

1. This writ petition has been filed under Article 226 of the Constitution of India praying to call for records relating to the proceedings passed in

Ka.No.554/2014/A2 dated 06.01.2017 and quash the same, by way of issuing a writ of certiorarified mandamus.

2. It is averred in the petition that the petitioners are the residents of Aranganvilai, Kallarangan Vilai, Keenavilai and Melanvilai respectively. The

third respondent has issued the impugned proceedings dated 06.01.2017. Further it is averred in the petition that the petitioners have not

encroached any portion in highways poromboke. But the third respondent has unnecessarily issued the proceedings dated 06.01.2017 and

therefore the present writ petition has been filed for getting the relief sought therein.

3. Mr.M.Govindan, learned Special Government Pleader, has taken notice for the respondents 1 to 5. Considering the nature of the relief sought in

the writ petition, notice need not be sent to the sixth respondent.

4. The learned counsel appearing for the petitioners has repeatedly contended to the effect that the petitioners are not the encroachers of any

portion of highways poromboke land and the petitioners have put up constructions well within their patta lands and therefore the third respondent

has unnecessarily issued the impugned proceedings and under the said circumstances the present writ petition has been filed for getting the relief

sought therein.

5. The learned Special Government Pleader appearing for the respondents 1 to 5 has represented to the effect that the third respondent has issued

such kind of proceedings only in pursuance of the order passed by this Court, wherein this Court has specifically directed the authorities concerned

to remove encroachments which are in existence on highways road from Moovatrumugam to Charur and under the said circumstances the third

respondent has issued such kind of proceedings and therefore the proceedings issued by the third respondent are not liable to be quashed.

6. It is seen from the records that in W.P(MD)No.21593 of 2016, this Court has directed the authorities concerned to remove encroachments

which are in existence in the place mentioned therein. Only in pursuance of the order passed by this Court, the proceedings in question have been

issued.

7. The main contention putforth on the side of the petitioners is that the petitioners have not encroached any portion of highways poromboke land

and further they put up constructions well within the limit of patta lands and further so many encroachers are there, but the third respondent has

selectively issued such kind of proceedings.

8. It is an admitted fact that in W.P(MD)No.21593 of 2016, this Court has directed the authorities to remove encroachments which are in

existence on both sides of highways road. It is also equally an admitted fact that the third respondent has issued such kind of proceedings only on

the basis of the direction given by this Court.

9. Considering the fact that the third respondent has acted only on the basis of direction given by this Court, this Court is not inclined to accept the

contentions putforth on the side of the petitioners. However it is seen from the records that the petitioners have given representations dated

11.01.2017. Since the petitioners have given representations dated 11.01.2017, this Court can direct the authorities to consider the same as

indicated below and further the respondents 1 to 5 are strictly directed to take appropriate proceedings in respect of all encroachments which are

in existence from the place mentioned in the order passed in W.P(MD)No.21593 of 2016.

10. In fine, this writ petition is dismissed without costs. The third respondent is strictly directed to dispose of the representations dated 11.01.2017

alleged to have been given by the petitioners within a period of one week. Further it is made clear that the respondents 1 to 5 are strictly directed

to remove all encroachments which are in existence from the place mentioned in the order passed in W.P(MD)No. 21593 of 2016. Consequently,

connected Miscellaneous Petition is dismissed.