



WEB COPY

1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2015

CORAM :

THE HONOURABLE DR.JUSTICE S.TAMILVANAN

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

Writ Appeal(MD) No.1549 of 2014

N.Rajendran

... Appellant/Petitioner

Vs.

1.The District Collector,
Theni District.

2.The Tahsildar,
Uthamapalayam Taluk,
Theni District.

3.The Executive Officer,
Pannaipuram Panchayat Union,
Theni District.

4.The Deputy Superintendent of Police,
Bodinayakkanur,
Theni District.

5.Ayyappan

6.Alagammal

... Respondents/Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 05.12.2014 made in W.P.(MD)No.19091 of 2014 on the file of this Court.

Prayer in WP(MD). 19091/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, forbear the 3rd respondent from removing the petitioner's construction in S.NO. 986/15 in Pannaipuram Village in Uthamapalayam Taluk in Theni District, on the guise of removal of encroachment, either on 27.11.2014 or any other date, except under due process of law and to pass such and further relieves.

For Appellant : Mr.R.Suriya Narayanan
For Respondents 1-4 : Mr.A.K.Baskarapandian
Special Government Pleader.
For Respondents 5&6 : Mr.R.Rajamohan

JUDGMENT

(Judgment of the Court was delivered by S.TAMILVANAN,J)

Challenging the order dated 05.12.2014 passed in W.P(MD)No.19091 of 2014 by the learned single Judge, the writ appeal has been filed by the appellant herein who was the petitioner before the learned single Judge.



2.It is seen that the writ petition was filed by the appellant herein seeking an order in the nature of Writ of Mandamus, forbearing the third respondent from removing the petitioner's construction in S.No.986/15 in Pannaipuram Village in Uthamapalaym Taluk in Theni District under the guise of removal of encroachment either on 27.11.2014 or any other date, except under due process of law.

3.By the impugned order dated 05.12.2014, the learned single Judge after considering the material papers and the submissions made by both sides held that the appellant/writ petitioner is not entitled to get the relief sought for in the writ petition. Accordingly, the writ petition was dismissed.

4.Learned Special Government Pleader appearing for the respondents 1 to 4 submits that the encroachment was made only in the road poramboke detrimental to the interest of the public.

5.Learned counsel appearing for the respondents 5 and 6 also concurred with the submission made by the learned Special Government Pleader for the respondents 1 to 4.

6.Admittedly, the relief sought for in the writ petition is based on a disputed question of that cannot be decided by the writ Court since appreciation of evidence is required. Having gone through the impugned order passed by the learned single Judge, we are of the view that there is no error or infirmity in the said order warranting interference by this Court. Therefore, the writ appeal is liable to be dismissed.

7.Accordingly, the writ appeal is dismissed. However, we make it clear that it is open to the appellant/writ petitioner to approach the concerned authority or Civil Court to establish his claim according to law, within a period of four weeks from today status quo shall be maintained till then. No costs.

Sd/-

Assistant Registrar (Writs)

/True copy/

Sub Assistant Registrar

To

1.The District Collector, Theni District.

2.The Tahsildar, Uthamapalayam Taluk, Theni District.

3.The Executive Officer, Pannaipuram Panchayat Union, Theni District.

4.The Deputy Superintendent of Police, Bodinayakkanur, Theni District.

+1CC TO MR.R.RAJAMOHAN, ADVOCATE IN SR : 11079

+1CC TO MR.R.SURIYANARAYANAN, ADVOCATE IN SR : 11507

+1CC TO THE SPECIAL GOVERNMENT PLEADER, IN SR : 11805

Sms

SR : 17.03.2015 : 2p/8c

<https://hcservices.ecourts.gov.in/hcservices/>

Writ Appeal(MD) No.1549 of 2014
09.03.2015