



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2015

CORAM :

THE HONOURABLE MR.JUSTICE R.SUDHAKAR

and

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Writ Petition (MD) No.12163 of 2014

MP(MD)NOS.1 & 2 OF 2014

C.Boopathy

... Petitioner

Vs.

1.The District Collector,
Madurai District, Madurai.

2.The Block Development Officer,
Collectorate Building Premises,
Madurai District, Madurai.

3.The Tahsildar,
Vadipatty, Madurai District.

4.The President,
Maniyanchi Village Panchayat,
Vadipatty Taluk, Madurai.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned eviction notice of the 4th respondent dated 03.07.2014 and quash the same as illegal and consequently directing the 4th respondent to pursue the original suit in O.S.No.36 of 2012 pending on the file of the learned District Munsif, Vadipatti, Madurai District.

For Petitioner

: Mr.C.M.Arumugam

For Respondents 1-3

: Mr.A.K.Baskarapandian,
Special Government Pleader.

For 4th Respondent

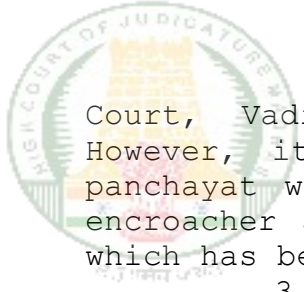
: Mr.R.Karthikeyan

ORDER

(Order of the Court was made by R.SUDHAKAR,J.)

The father of the petitioner said to have entered into a lease agreement with the Panchayat in respect of 82 cents in Survey Nos.38/1 and 40/1 in Maniyanji Village, Vadipatti Taluk. The petitioner's father died in the year 2009. Thereafter, the panchayat passed a resolution cancelling the lease deed consequent to the death of the lessee. It appears that the petitioner continued to occupy the panchayat property not under any valid lease or licence but purely as a son of the deceased lessee.

2.It is pointed out by the learned Special Government Pleader as well as the learned counsel for the fourth respondent panchayat that the petitioner filed a suit in O.S.No.96 of 2001 before the District Munsif



Court, Vadipatti seeking injunction against the fourth respondent. However, it is conceded that no interim order has been passed. The panchayat wanted to proceed with the recovery of the property from the encroacher and therefore, they have issued the notice dated 03.07.2014 which has been challenged in this writ petition.

3.The objection raised by the fourth respondent pleading that there is no valid justification for the petitioner to continue in the occupation and in the event of succeeding the suit, he could still make a claim. At this juncture, he could be treated only as a trespasser, a person occupying the land with no right or a valid title appears to be justified and sustained.

4.In view of the above, it is always open to the petitioner to make his objection to the said notice which is impugned in this writ petition and on receipt of such objection, the authority shall pass appropriate orders, on merits and in accordance with law after giving an opportunity of hearing to the petitioner, as expeditiously as possible.

5.Accordingly, the writ petition is disposed of. No costs. Consequently, M.P(MD)Nos.1 and 2 of 2014 are closed.

Sd/-
Assistant Registrar (WRIT)

/True Copy/

Sub Assistant Registrar

sms

To

1.The District Collector,
Madurai District, Madurai.

2.The Block Development Officer,
Collectorate Building Premises,
Madurai District, Madurai.

3.The Tahsildar,
Vadipatty, Madurai District.

+1cc to MR.L.M.ARUMUGAM, Advocate Sr.No 44101

+1cc to M/S.R.KARTHIKEYAN, Advocate Sr.No 44715

+1cc to Spl.Government pleader Sr.No. 44600

JAM/JGB- /SAR-I/5.9.15/2P-7C

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