

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.4600 of 2014
and
M.P.No.1 of 2014

M.Jegannathan

.. Petitioner

Vs.

1.The District Collector,
Perambalur District.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Alathur Zone,
Perambalur District.

3.The President,
Keelamathur Panchayat,
Perambalur District.

.. Respondents

The writ petition has been filed, under Article 226 of the Constitution of India praying, for the issuance of a writ of mandamus, directing the first respondent, to initiate an action against the third respondent, for illegally entering into the petitioner's lawful land and forming a mud road and consequently, to remove the mud road, in S.No.68/10, at Sadaikkanpatti village, Perambalur District.

For Petitioner : Mr.S.Gunalan

For Respondents: Mr.P.Karthikeyan, GA for RR1 and 2
Mr.G.Padmanaban for R-3

ORDER

Heard.

2 This writ petition has been filed, praying that this Court may be pleased to issue a Writ of Mandamus, directing the first respondent to initiate action against the third respondent, for illegally entering into the land of the petitioner and disturbing his lawful possession of the land, by forming a mud road, in S.No.68/10, at Sadaikkanpatti Village, Perambalur district.

3 At this stage of the hearing of the writ petition, the learned counsel appearing on behalf of the third respondent had filed a counter affidavit, dated 31.7.2016. Paragraphs 5 and 6 of the said counter affidavit read as follows :

"5.I am not disputing the title nor have I committed any act of encroaching upon the property owned by the petitioner. There was heavy rains due to which the mud road / cart track which was in existence was severely damaged. As an elected President of the Village Panchayat I only filled up the existing Road with Savudu to make the existing pathway for the usage to the public.

6.I deny the allegation of the writ petitioner that I wanted the property of the petitioner for a throw away price. The petitioner is put to strict proof of the said allegations. The 1st respondent had not taken any action on the basis of the petitioner's representation for the reasons that there is no truth in the allegations. In any event the petitioner has to move the civil court if he felt that there was encroachment of his land by any 3rd party. The petitioner conveniently impleaded me to make the W.P. maintainable in respect of this Civil dispute for which this Hon'ble Court shall not be approached."

4 In view of the averments made in the above mentioned paragraphs, this Court is of the view that the matter involves disputed questions of fact and therefore, the writ petition is not maintainable, under Article 226 of the Constitution of India. If the petitioner is aggrieved by the action of the third respondent, it is for him to move the appropriate civil court, to seek his reliefs, if any, in the manner known to law. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

vvk

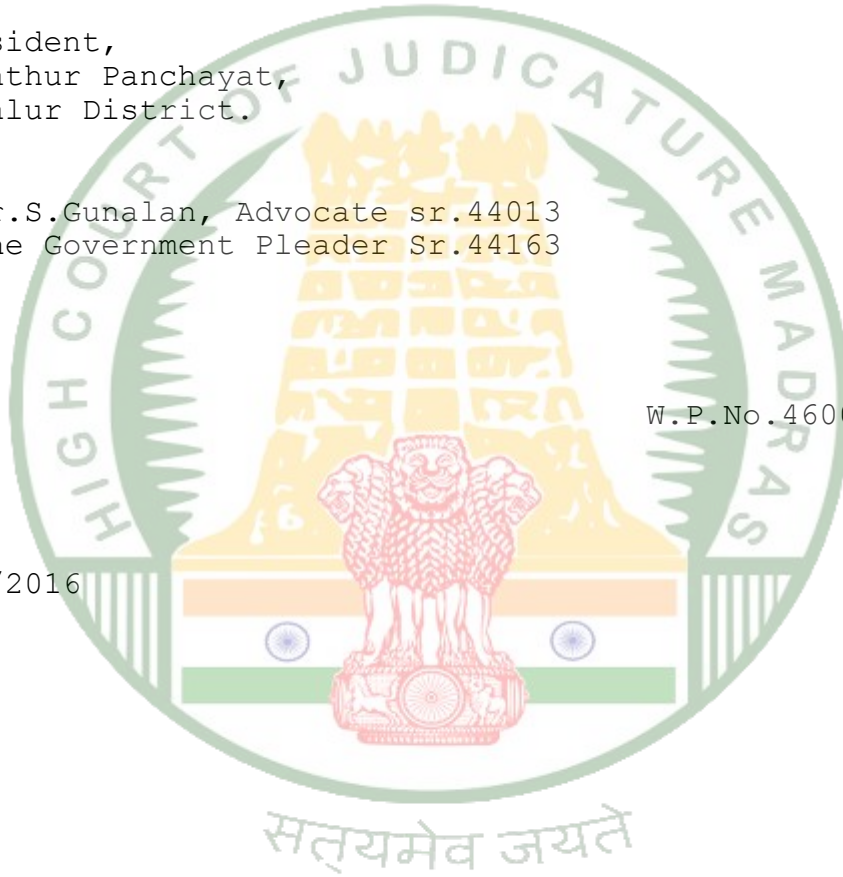
To

- 1.The District Collector,
Perambalur District.
- 2.The Revenue Divisional Officer,
Revenue Divisional Office,
Alathur Zone,
Perambalur District.
- 3.The President,
Keelamathur Panchayat,
Perambalur District.

+1cc to Mr.S.Gunalan, Advocate sr.44013
+1cc to the Government Pleader Sr.44163

W.P.No.4600 of 2014

GJ II[co]
srg 23/08/2016



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