



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE P.KALAIYARASAN

W.P (MD) No.12806 of 2014
and
M.P (MD) No.1 of 2014

J.Justin Thiraviam

.. Petitioner

Vs.

1. District Collector,
Tirunelveli District,
Kokkarakulam,
Tirunelveli District.
2. The Sub-Collector/
Revenue Divisional Officer,
Cheranmahadevi,
Tirunelveli District.
3. The Tahsildar,
Ambasamudram,
Tirunelveli District.
4. Kasi @ Sadaiyandi

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the third respondent to remove the encroachment in 1 acre 78 cents of land in Sy.No.576/13 of Mylaupuram Village, Ambasumuthiram Taluk, Tirunelveli District as directed by the second respondent in his office proceeding No.Naa.Ka.Aa 2-3279-10, dated 09.11.2010, within the time limit fixed by this Court.

For Petitioner : Mr.C.Dhanaseelan
For Respondents 1 to 3 : Mr.D.Muruganandham

For Respondent No.4 : No appearance

**ORDER**

[Order of the Court was made by A.SELVAM, J.]

This writ petition has been filed under Article 226 of the Constitution of India praying to issue a writ of mandamus so as to direct the third respondent viz., Tahsildar, Ambasamudram, Tirunelveli District, to implement the order dated 09.11.2010 passed by the second respondent viz., Sub-Collector/Revenue Divisional Officer, Cheranmahadevi, Tirunelveli District.

2.It is averred in the petition that Survey No.576/13, admeasuring 1 acre 78 cents, situates in Mylaupuram Village, Ambasamuthiram Taluk, Tirunelveli District, has been using as a burial ground of Scheduled Caste people. Since the fourth respondent has made arrangements to encroach the same, the second respondent has passed the impugned order dated 09.11.2010, wherein a specific direction has been given to the third respondent viz., Tahsildar, Ambasamudram. Further it is averred in the petition that the third respondent has not taken any steps to remove encroachments. Under the said circumstances, for giving necessary direction to the third respondent, the present writ petition has been filed.

3.The learned counsel appearing for the petitioner has contended to the effect that the survey number in question has been using for a graveyard of Scheduled Caste people and since the fourth respondent has made encroachments, the second respondent has passed the impugned order and thereby directed the third respondent to remove encroachments and even though such order has been passed, the fourth respondent has not shown any interest to remove the encroachments and under the said circumstances, the present petition has been filed.

4.The learned Additional Government Pleader appearing for the respondents 1 to 3 has contended that for identical relief Original Suit No.106 of 2013 has been filed on the file of the Sub Court, Ambasamudram and under the said circumstances the relief sought in the present petition cannot be granted.

5.In fact this Court has perused the copy of the plaint filed in Original Suit No.106 of 2013 and ultimately found that the survey number mentioned therein is not related to the property mentioned in the order dated 09.11.2010 passed by the second respondent and further the second respondent has specifically directed the third respondent to remove encroachments alleged to have been made by the fourth respondent.

<https://hcservices.ecourts.gov.in/hcservices/> Considering the nature of the order passed by the second respondent and also considering the nature of the relief sought in



the present petition, the contention putforth on the side of the respondents 1 to 3 is of no use and therefore the present writ petition is liable to be allowed.

7. In fine, this writ petition is allowed without costs and the third respondent viz., Tahsildar, Ambasamudram, Tirunelveli District is strictly directed to implement the order dated 09.11.2016 passed by the second respondent within a period of two months. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Tirunelveli District,
Kokkarakulam,
Tirunelveli District.
2. The Sub-Collector/
Revenue Divisional Officer,
Cheranmahadevi,
Tirunelveli District.
3. The Tahsildar,
Ambasamudram,
Tirunelveli District.

+ 1 CC TO Mr.C.DHANASEELAN, ADVOCATE IN SR No. 79379
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 79713

SMN
TE/EM/SAR-III : 15/12/2016 : 3P/6C

ORDER MADE IN
W.P (MD) No.12806 of 2014
and
M.P (MD) No.1 of 2014
05.12.2016