



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2016

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition (MD) No.19798 of 2014

and

W.P(MD)No.8927 of 2015

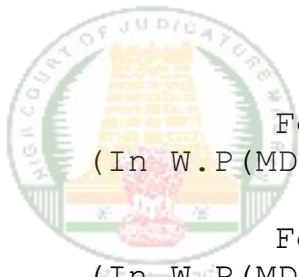
Ayyankannu ... Petitioner in W.P(MD)No.19798 of 2014
A.S.Jawahar ... Petitioner in W.P(MD)No.8927 of 2015

Vs.

- 1.The District Collector,
Kanyakumari District,
Nagercoil. ... 1st Respondent in both W.Ps.
- 2.The Sub Collector,
Kanyakumari District,
Nagercoil. ... 2nd Respondent in W.P.(MD)No.19798/2014
- 3.The Tahsildar,
Agasteeswaram Taluk,
Nagercoil,
Kanyakumari District. ... 3rd and 2nd Respondent in both W.Ps.
- 4.A.S.Jawahar ... 4th Respondent in W.P(MD)No.
19798 of 2014
- 5.Iyyankannu ... 3rd Respondent in W.P(MD)No.
8927 of 2015

Prayer in W.P(MD)No.19798 of 2014: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records relating to impugned order in Na.Ka.C4/11698/13(1) dated 12.08.2013 passed by the 3rd respondent and quash the same.

Prayer in W.P(MD)No.8927 of 2015: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 2nd Respondent to remove the encroachment made by the 3rd Respondent in the Petitioner s property bearing Survey NO. 695/7 696/4 and 696/5 in Neendakarai B Village Agastheeswaram Taluk Kanyakumari district as per the order bearing Na.Ka.C4/11698/13(1) dated 12.08.2013.



For Petitioner
(In W.P(MD)No.19798 of 2014)

: Mr.T.Selvakumaran

For Petitioner
(In W.P(MD)No.8927 of 2015)

: Mr.M.Gnanagurunathan

WEB COPY

For Respondents (1&2) (1-3): Mr.N.S.Karthikeyan,
(In both W.Ps) Additional Government Pleader.

For 3rd Respondent
(In W.P(MD)No.8927 of 2015)

: Mr.T.Selvakumaran

For 4th Respondent
(In W.P(MD)No.19798 of 2014)

: Mr.K.Samidurai

COMMON ORDER

Challenging the order passed by the Tahsildar, directing the petitioner in W.P(MD)No.19798 of 2014, to remove the encroachment made by him in the lands belonging to the fourth respondent, W.P(MD)No.19798 of 2014 has been filed.

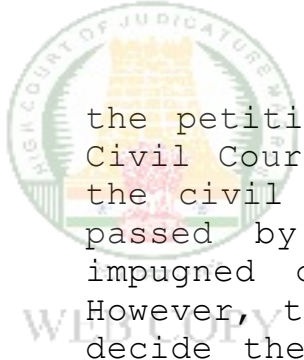
2.W.P(MD)No.8927 of 2015 has been filed seeking for the issuance of a writ of mandamus to direct the second respondent to remove the encroachment made by the third respondent in the petitioner's property bearing Survey Nos.695/7, 696/4 and 696/5 in Neendakarai 'B' Village, Agastheeswaram Taluk, Kanyakumari District as per the order bearing Na.Ka.C4/11698/13(1), dated 12.08.2013.

3.According to the petitioner in W.P(MD)No.19798 of 2014, originally, an extent of 14 $\frac{1}{4}$ cents of land belonging to his grandmother subsequently, which was gifted to the petitioner. Thereafter, it was divided equally between himself and his brother by entering into a partition. They are residing in the above said lands. In the meantime, the fourth respondent approached the revenue authorities stating that the petitioner has encroached his land. Based on the representation, the third respondent Tahsildar, issued notice calling upon the petitioner to appear for enquiry and produce documents to establish his title. The petitioner has also appeared before the Tahsildar and produced relevant documents. Thereafter, the Tahsildar, passed the impugned order stating that the petitioner encroached 2.25 cents of the land belonging to the fourth respondent and directed him to remove the encroachment immediately. Aggrieved by the same, the petitioner has filed W.P(MD)No.19798 of 2014. In the meantime, the fourth respondent has filed W.P(MD)No.8927 of 2015 seeking direction to implement the said order passed by the Tahsildar dated 12.08.2013.

4.I have considered the submissions made by the learned counsel appearing for the parties.

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

5.It is a civil dispute between the petitioner and the fourth respondent. Therefore, the appropriate remedy available to



the petitioner and the fourth respondent is before the competent Civil Court and the revenue authorities have no power to decide the civil dispute between the parties and as the impugned order passed by the third respondent is without jurisdiction, the impugned order passed by the third respondent is set aside. However, the parties are directed to approach the Civil Court to decide the issue in the manner known to law. It is needless to mention that the Civil Court shall decide the issue independently without reference to the order passed by the Tahsildar concerned.

6.The writ petitions are accordingly disposed of. No costs.

Sd/-
Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar

sms

To

1.The District Collector, Kanyakumari District,
Nagercoil.

2.The Sub Collector, Kanyakumari District,
Nagercoil.

3.The Tahsildar, Agasteeswaram Taluk,
Nagercoil, Kanyakumari District.

+1CC to Mr.K.Samidurai, Advocate Sr.No.68483

+1CC to Mr.T.Selvakumaran, Advocate Sr.No.68065

GJM/CK/29.11.16-3p-6C

Writ Petition (MD) No.19798 of 2014
and
W.P (MD) No.8927 of 2015
11.11.2016