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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2016

CORAM :

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO

and

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Writ Petition (MD) No.14239 of 2016

and

W.M.P (MD) No.10553 of 2016

Manickam

... Petitioner

Vs.

1. The District Collector,
Pudhukottai District.

2. The Sub Collector/Revenue Divisional Officer,
Thirumayam Taluk, Pudukottai District.

3. The District Ad-draavidar Welfare Officer,
Pudukottai District.

4. The Tahsildar, (ADW)
Thirumayam Taluk, Pudukottai District.

5. Saraswathi

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to evict the encroachment being done by the 5th respondent at S.F.No.107/5 in Vairampatti Village Attur Panchayat Thirumayam Taluk, Pudukkottai District and to give protection to the life and property of the petitioner.

For Petitioner : Mr.R.Pandi Maharaja

For Respondents 1-4 : Mr.M.Alagathevan,
Special Government Pleader.

ORDER

(Order of the Court was made by NOOTY.RAMAMOHANA RAO,J)

This writ petition is filed seeking a writ of mandamus to direct the respondents 1 to 4 to evict the encroachment said to have been resorted to by the fifth respondent in the land said to have been assigned in favour of the predecessor-in-interest of the petitioner.

2. In paragraph 5 of the affidavit filed in support of this writ petition, it is alleged that after the death of the predecessor-in-interest of the writ petitioner namely, his father on



05.07.2002, he and other family members being the heirs of the deceased individual started enjoying the property in question in their own right. It is further alleged that the fifth respondent being the local Sarpanch using her influence encroached upon the property of the petitioner and started making constructions thereon.

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3.The premise upon which this writ petition is instituted is that the land in question was assigned to the predecessor-in-interest of the writ petitioner and that it has suffered encroachment at the hands of the fifth respondent. Such factual controversies can be determined upon collection of evidence, both oral and documentary, in exercise of jurisdiction under Article 226 of the Constitution, seldom such collection of evidence is resorted to, in that, this Court is not forbidden from collecting any such evidence, but was not indulged in routinely.

4.In such circumstances, preserving liberty to the writ petitioner to approach the Court of competent civil jurisdiction, we dismiss this writ petition at the admission stage. No observation of ours is liable to be construed as of expression of merits or lack of it in the case. No costs. Consequently, W.M.P(MD)No.10553 of 2016 is closed.

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Pudhukottai District.
2. The Sub Collector/Revenue Divisional Officer,
Thirumayam Taluk, Pudukottai District.
3. The District Ad-dravidar Welfare Officer,
Pudukottai District.
4. The Tahsildar, (ADW)
Thirumayam Taluk,
Pudukottai District.

+ 1 CC TO M/S.R.PANDI MAHARAJA, ADVOCATE IN SR No. 42527
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 42950

SMS

TE/SK-SKN/ : 22/08/2016 : 2P/7C

Writ Petition (MD) No.14239 of 2016
and