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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.01.2016

CORAM :

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Writ Petition (MD) No.170 of 2016

and

W.M.P (MD) No.129 of 2016

R.Rajeswari

... Petitioner

Vs.

1.The District Collector,
Thanjavur District.

2.The Tahsildar,
Kumbakonam Town,
Thanjavur District.

3.The Municipality Commissioner,
Municipality Office,
Kumbakonam Municipality,
Thanjavur District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbearing the Respondents from demolishing the compound wall of the petitioners house property in Town Survey No.276/3 Door No.14A/17 State Bank Colony Ward No.1 Kumbakonam Town Thanjavur District without surveying the said property and without following the provisions of Tamil Nadu Land Encroachment Act 1905 and without adopting the due process of law.

For Petitioner

: Mr.R.Maheswaran

For Respondents 1 & 2

: Mr.C.Selvaraj,
Special Government Pleader.

For 3rd Respondent

: Mr.M.Rajarajan
Government Advocate

ORDER

(Order of the Court was made by **V.RAMASUBRAMANIAN, J.**)

The petitioner has come up with the above writ petition seeking a mandamus to forbear the respondents from demolishing a compound wall, without surveying the property and without following due process of law.



2. Heard Mr.R.Maheswaran, learned counsel for the petitioner. Mr.C.Selvaraj, learned Special Government Pleader takes notice for the respondents 1 and 2 and Mr.M.Rajarajan, learned Government Advocate takes notice for the third respondent.

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3. On the occasion of Mahamaham at Kumbakonam, the respondents appear to have undertaken a drive to remove encroachments. As part of the drive, a compound wall built around the petitioner's property is sought to be demolished. Therefore, the petitioner is before this Court. If the compound wall is actually in patta land, the petitioner can have the same saved. If the compound wall is in a poramboke land, it is liable to be demolished. The photograph filed by the petitioner shows that there is storm water drain adjoining the compound wall. We do not know how much of the compound wall falls within the patta land and how much falls outside. Therefore, we dismiss the writ petition only making it clear that any portion of the property falling within the patta land should not be demolished. No costs. Consequently, W.M.P.No.129 of 2016 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar
Madurai Bench of Madras High Court,
Madurai.

To

1. The District Collector,
Thanjavur District.

2. The Tahsildar,
Kumbakonam Town,
Thanjavur District.

3. The Municipality Commissioner,
Municipality Office,
Kumbakonam Municipality,
Thanjavur District.

+1cc to M/S.R.Maheswaran, Advocate in SR.No. 908

+1cc to M/S.M.Rajarajan, Advocate in SR.No. 759

TS/08.01.2016/2P-6C/ GSV-AN /SAR II

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and
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