



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

and

THE HONOURABLE MS. JUSTICE V.M. VELUMANI

W.P. (MD) No. 17546 of 2016

and

WMP (MD) No. 12670 of 2016

R. Gothanda Raman

... Petitioner

Vs.

1. The District Collector,
Virudhunagar District,
Virudhunagar.

2. The Revenue Divisional Officer,
Sivakasi Revenue Division,
Sivakasi,
Virudhunagar District.

3. The Tahsildar,
Vembakkottai Taluk,
Virudhunagar District.

4. The Block Development Officer,
Vembakkottai Union,
Vembakkottai,
Virudhunagar District.

5. K. Kadarkarai

... Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the entire records pertaining to proceedings of the 4th respondent in Na.Ka.No.P2/2270/2015, dated 06.09.2016 and quash the same as illegal.

For Petitioner : Mr. S.M. Anantha Murugan

For Respondents : Mr. VR. Shanmuganathan
(R1 to R4) Special Govt. Pleader

ORDER

(Order of this Court was made by M.SATHYANARAYANAN, J.)

The petitioner claims that to be a resident of T.Karisalkulam, TNC Alangulam Post, Vembakkottai Taluk, Virudhunagar District and he is residing in the said address along with his family members. He would further submit that he has also constructed a residential house in the said address bearing Survey No.92/1, Ward No.2, admeasuring to an extent of 783 sq.ft., including a toilet and a staircase.

2. The petitioner would further submit that the 5th respondent, who is a rival claim, had also started interfering with his peaceful possession on the ground that the staircase under which toilet has been constructed is a public pathway and it is also a subject matter of civil litigation in S.A.No.1587 of 1998, on the file of this Court, which came to be dismissed on 05.12.2003. The 5th respondent on an earlier occasion had approached this Court by filing W.P.(MD)No.14325 of 2014 and this Court, vide order dated 11.08.2015, had directed the officials respondents therein to proceed in terms of G.O.Ms.No.540, Revenue LD6(2) Department, dated 04.12.2014.

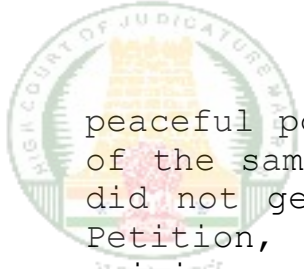
3. The petitioner once again apprehending trespass and unauthorized demolition of the alleged offending portion had filed a Suit in O.S.No.119 of 2016, against the Collector of Virudhunagar District, Revenue Tahsildar, Vembakottai and one Mr.Kadarkarai, on the file of the Court of District Munsif, Sivakasi, for permanent injunction restraining them from interfering with his peaceful possession and enjoyment of the superstructure put up by him in the land in S.No.92/1, Ward No2, in T.Karisalkulam, TNC Alangulam Post, Vembakkottai Taluk, and the same is pending and despite the pendency of the Suit, the respondents 3 and 4 are without recourse the law made an attempt to demolish the staircase as well as the toilet.

4. The learned counsel appearing for the petitioner would submit that in all fairness, the 3rd and 4th respondents ought not to have initiated any action as the Suit in O.S.No.119 of 2016, is pending and therefore, prays for appropriate orders

5. Per contra, Mr.V.R.Shanmuganathan, the learned Special Government Pleader would submit that the petitioner had already invoked the jurisdiction of the civil Court by filing his revision and simultaneously, he cannot invoke the jurisdiction of this Court and therefore, the prayer sought for by the petitioner cannot be granted.

6. This Court has considered the rival submissions and also perused the typed set of documents.

7. Admittedly, the petitioner has filed a Suit in O.S.No.119 of 2016 against the Collector of Virudhunagar District, Revenue Tahsildar, Vembakottai as well as the Block Development Officer, Vembakottai and also some private individuals, for permanent injunction restraining them from interfering with his



peaceful possession and enjoyment of the same and pending disposal of the same and pendency of appeal appeal in S.A.No.1587 of 1998 did not get any interim order and simultaneously filed this Writ Petition, almost for the very same relief. In the considered opinion of this Court, the petitioner cannot simultaneously prosecute two proceedings for the very same relief.

8. In the light of said reasons assigned above, this Court is of the view that the Writ Petition lack merits and deserves to be dismissed. Accordingly, the Writ Petition is dismissed and the petitioner is at liberty to work out his remedy in a pending civil Suit in O.S.No.119 of 2016, on the file of Court of District Munsif, Sivakasi. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The Revenue Divisional Officer,
Sivakasi Revenue Division,
Sivakasi,
Virudhunagar District.
- 3.The Tahsildar,
Vembakkottai Taluk,
Virudhunagar District.
- 4.The Block Development Officer,
Vembakkottai Union,
Vembakkottai,
Virudhunagar District.

+One cc to Mr.S.M.Anantha Murugan, Advocate, SR.No.52901

+One cc to The Special Government Pleader, SR.No.53202

mpk

RL/7C/3P/SK/SKN/19.10.2016

W.P. (MD) No.17546 of 2016