



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2016

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P. (MD) .No.16987 of 2013
and
M.P. (MD) .Nos.1 and 2 of 2013

I.Samuthiram

.. Petitioner.

Vs.

- 1.The District Collector,
Collectorate,
Tirunelveli District.
- 2.The Superintendent of Police,
O/o. The Superintendent of Police,
Tirunelveli District.
- 3.The Commissioner,
Vickramasingapuram Municipality,
Tirunelveli District.
- 4.The Tahsildar,
Ambasamudram Taluk,
Tirunelveli District.
- 5.Mr.T.Selvaraj

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue Writ of Mandamus directing the respondents to remove the illegal encroachment made by the respondent No.5 on the public well situated in Survey No.221/4, Kondapayanpatti village, Vickramasingapuram Municipality, Tirunelveli District and take necessary steps to enable utilization of the public well by the villagers within the time stipulated by this Hon'ble Court .

For Petitioner
For Respondents

: Mr.T.Lajapathi Roy
: Mr.T.R.Janarthanam
Addl. Government Pleader
for RR-1, 2 and 4
Mr.H.Arumugam for R-3
Mr.S.Sundarapandian for R-5

ORDER

(The Order of the Court was made by S.NAGAMUTHU.J)

The petitioner has come up with this writ petition seeking a direction to the respondents 1 to 4 to remove the alleged encroachment made by the respondent No.5 in the land comprised in Survey No.221/4, Kondapayanpatti village, Vickramasingapuram Municipality, Tirunelveli District and take necessary steps to enable utilization of the public well by the villagers.

2. We have heard the learned counsel for the petitioner, the learned Additional Government Pleader appearing for the respondent Nos.1, 2 and 4 and the learned counsels appearing for the respondent Nos.3 and 5.

3. According to the petitioner, there is a well situated in Sy.No.221/4 at Kondapayanpatti village, Vickramasingapuram Municipality, Tirunelveli District, which is a public well, over which the general public are entitled to take water. But according to the petitioner, the fifth respondent has encroached upon and fenced the same, keeping the same within his conclusive possession.

4.The Commissioner, Vickramasingapuram Municipality has stated that according to the official records, the well is situated in the land belonging to the panchayat. But the learned counsel appearing for the fifth respondent would submit that the well is a private well and the land itself belongs to him. There is also a civil suit pending in respect of title for the property in O.S.No.230 of 2013 on the file of the District Munsif Court, Ambasamudram.

5.We have considered the above submissions.

6.Since there are lot of disputed questions of fact to be decided, we are of the considered view that they could only be resolved before a competent civil court. Since a civil suit is already pending before the learned District Munsif Court, Ambasamudram, it is for the petitioner to work out his remedy before the said court. Therefore, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(CSI)

/True Copy/



To

1.The District Munsif, Ambasamudram

2.The District Collector,
Collectorate,
Tirunelveli District.

3.The Superintendent of Police,
O/o. The Superintendent of Police,
Tirunelveli District.

4.The Commissioner,
Vickramasingapuram Municipality,
Tirunelveli District.

5.The Tahsildar,
Ambasamudram Taluk,
Tirunelveli District.

+One cc to Mr.S.Sundarapandian, Advocate, SR.No.50513

+One cc to Mr.H.Arumugam, Advocate, SR.No.50710

+One cc to The Special Government Pleader, SR.No.50573

vs

RL/9C/3P/CK/16/9/2016

W.P. (MD) .No.16987 of 2013

06.09.2016