

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2017

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No. 27880 of 2015
and
M.P. Nos. 1 and 2 of 2015
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Smt. A. Anbumani ... Petitioner

Versus

1. The District Collector
Thiruvarur District
Thiruvarur

2. The District Revenue Officer
Collector Office Compound
Thiruvarur

3. The Revenue Divisional Officer
RDO Office
Mannargudi
Thiruvarur District

4. The Tahsildar
Taluk Office
Thiruthuraipoondi
Pin Code - 614 713
Thiruvarur District

5. R. Rangasami ... Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Mandamus forbearing the respondents 2 to 4 from putting up any pathway in the private property belonging to the petitioner and to meddle with the said property in Survey No.176A/34, North Street, Karuva Kurichi Village, Mannargudi Taluk, Thiruvarur District.

For Petitioner : Mr. S. Sathiamurthi

For Respondents : Mr. S. Rajeswaran

Special Government Pleader for RR1 to 4
Mr. M.V. Venkateshan for R5

ORDER

The petitioner seeks for issuing a direction to forbear the official respondents 1 to 4 from putting up any pathway in the land comprised in Survey No.176A/34, North Street, Karuva Kurichi Village, Mannargudi Taluk, Thiruvarur District inasmuch as it is his private property. In para No.5 of the affidavit filed in support of the writ petition, the petitioner would aver that the officials attached to the second respondent have trespassed into his property purportedly to provide pathway to the fifth respondent herein. It is also contended by the petitioner that there is a separate pathway available for the fifth respondent to reach his house and therefore, the attempt on the part of the official respondents to provide a pathway to the fifth respondent is illegal. It is also contended by the petitioner that already the fifth respondent has filed a suit in O.S. No. 94 of 2015 before the District Munsif Court, Mannargudi for the relief of Declaration in which the petitioner and her husband were arrayed as defendants.

2. It is evident from the above facts that there is a dispute with respect to pathway between the petitioner and the fifth respondent and the fifth respondent has also filed a suit in O.S. No. 94 of 2015 against the petitioner and her husband before the learned District Munsif, Mannargudi and the suit is pending. In the said suit, the fifth respondent has claimed that the vendor of the petitioner has erroneously annexed his land measuring 580 square feet which necessiated him to file the civil suit. Such disputed questions of fact cannot be adjudicated by this Court in this writ petition. Therefore, in the light of the above, this Court is of the considered view that the prayer sought for by the petitioner to forbear the official respondents 1 to 4 from interfering with his property right cannot be granted. When already a suit is filed by the fifth respondent and it is pending before the Civil Court in respect of the very same property in dispute, the petitioner has to only work out her remedy, if any, only in the civil suit and this writ petition is not maintainable.

In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

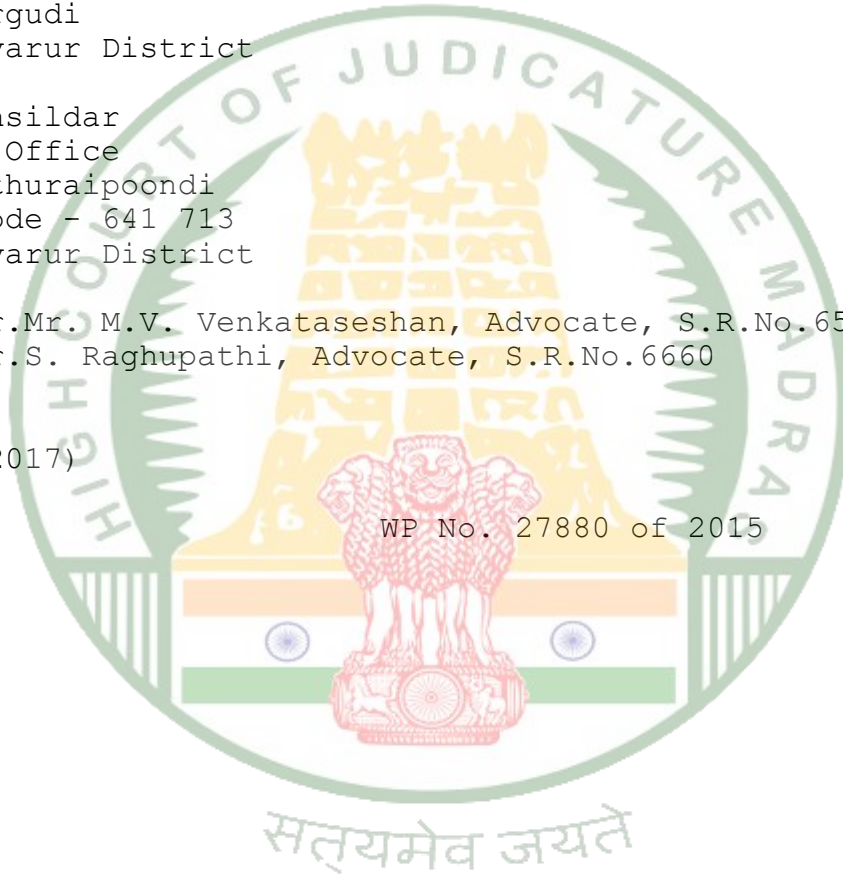
To

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+2cc to Mr.Mr. M.V. Venkataseshan, Advocate, S.R.No.6573
+2cc to Mr.S. Raghupathi, Advocate, S.R.No.6660

ak(CO)
md(15/02/2017)

WP No. 27880 of 2015



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