



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2017

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM  
AND  
THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

W.A. (MD) .No.19 of 2015

P.Gopi

...Appellant/Petitioner

Vs.

1.The District Collector,  
Dindigul District,  
Dindigul.

2.The Tahsildar,  
Dindigul Taluk Office,  
Dindigul

3.The District Head Surveyor,  
Dindigul Taluk Office,  
Dindigul.

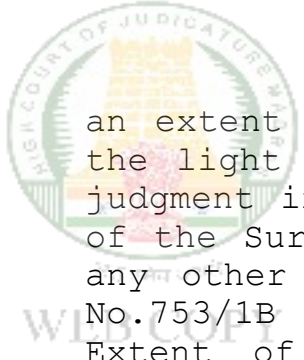
4.J.Sunil Kumar

... Respondents/Respondents

PRAYER: Writ Appeal is filed under Clauses 15 of Letters Patent against the order dated 25.06.2014 in W.P.No.17364 of 2013.

Prayer in WP(MD)No.17364/2013:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the 1st to 3rd Respondents to fix the metes and bounds in respect of land in Survey No. 753/1B situated at Sirumalai Village, Poonjolai estate, Dindigul district to an extent of 195 acres and 26 cents and also to conduct a detailed enquiry in order to ascertain the fact regarding the induction of land in Survey Nos. 694/1A, B and 3 in the land in Survey No. 753/1B situated at Sirumalai Village, Poonjalai Estate, Dindigul District based on the petitioners representation dated 26.09.2013 and 26.03.2013 and the direction given by this Hon'ble Court dated 22.07.2012 passed in W.P. (MD) No. 14198 of 2011 on the basis of the petitioners representation dated 13.10.2011 & 31.01.2011 for the purpose of Surveying the Land in Survey No.753/1B situated to at Sirumalai Village, Pooncholai estate, to



an extent of 195 acres and 26 cents and its patta No.265 and in the light of Judgment in O.S.No.478 of 2000 dated 25.11.2002 and judgment in O.S.No.183 of 2007 dated 1.8.11 and as per Section 10 of the Survey and boundary Act and prevent the 4<sup>th</sup> Respondent or any other persons to cut and remove the trees lying in Survey No.753/1B situated at Sirumalai Village, Pooncholai Estate to an Extent of 195 acres and 26 cents and save the Petitioner's valuable properties from the hands of the 4<sup>th</sup> respondent or any other persons .

For Appellant : Mr.V.R.Venkatesan

For Respondents : Mr.V.R.Shanmuganathan for R1 to R3  
Additional Government Pleader  
Mr.S.Ravi for R4

### JUDGMENT

[Judgment of the Court was made by T.S.SIVAGNANAM,J]

This appeal is directed against an interim order passed in the W.P.(MD).No.17364/2013. At the time when the writ appeal was entertained, an interim order was granted by this Court on 13.01.2015, which was subsequently modified by order dated 20.01.2015. The orders dated 13.01.2015 and 20.01.2015 are quoted hereunder respectively:-

"Heard the learned counsel appearing for the appellant/petitioner, Mr.N.Manoharan, learned Special Government Pleader, who takes notice on behalf of the respondents 1 to 3 and the learned counsel appearing for the fourth respondent.

2. When the matter came up for hearing, it is brought to the notice of this Court that the writ petition in W.P.(MD).No.17364 of 2013 has been filed by the appellant/petitioner seeking interim injunction and other reliefs in respect of cutting the trees available in the land in S.No.753/1B. The typed set of papers filed would clearly establish the same.

3. Learned counsel appearing for the the fourth respondent submits that as per the order, dated 28.01.2013 in S.R.No.47/2013/E3, dated 28.01.2013, the District Collector, Dindigul passed an order in favour of the fourth respondent only in respect of S.Nos.694/1A, 1B and 694/3.

4. It is an admitted fact that the District Collector has not passed any order in favour of the fourth respondent in respect of the land in S.No.753/1B of Sirumalai Village, Poonjolai Estate, Dindigul District and that is also not the case of the appellant/petitioner in aforesaid writ petition. However, it is seen that this Court passed an order



permitting the fourth respondent to cut and remove 200 trees that was available in S.No.753/1B of Sirumalai Village, Poonjolai Estate, Dindigul District. As it is beyond the scope of the main writ petition, we find just and reasonable to grant interim stay of the impugned order. Accordingly, interim stay is granted in respect of the above said land in S.No.753/1B.

5. The matter is directed to be posted on 20.01.2015, in the meanwhile the respondents shall file their respective counters."

"Heard the learned counsel appearing for the petitioner/appellant, the learned Special Government Pleader appearing for respondents 1 to 3 and the learned Senior Counsel appearing for respondent No.4.

2. It is seen that the District Collector, Dindigul District, by his order dated 28.01.2013, made in S.R.47/2012/E3, permitted the 4<sup>th</sup> respondent herein to cut the trees that are available in Survey Nos.694/1A, 1B and 694/3 in Sirumalai Village, Dindigul Taluk.

3. The petitioner/appellant herein had filed the writ petition in W.P.(MD).No.17364 of 2013, wherein the impugned order was passed on 25.06.2014 by the learned Single Judge, whereby it is made clear that the 4<sup>th</sup> respondent is entitled to cut and remove 200 trees in Survey No.753/1B in Sirumalai Pooncholai Estate, Dindigul District.

4. It is not in dispute that as per the order passed by the District Collector on 28.01.2013, permission was granted only for Survey Nos.694/1A, 1B and 694/3 and not for Survey No.753/1B and further the petitioner/appellant has specifically made out his case relating to Survey No.753/1B in the said Sirumalai Pooncholai Estate, Dindigul District. In the aforesaid circumstance, it is crystal clear that it is only a typographical error in respect of Survey No.753/1B, instead of stating the correct Survey Nos.694/1A, 1B and 694/3 of the said Estate.

5. It is also brought to the notice of this Court that the petitioner/appellant as well as the 4<sup>th</sup> respondent herein are claiming right to certain landed properties, for which they must approach only Civil Court and the Writ Court cannot go into the disputed question of facts. Here, we have to consider the correctness of the order passed by the District Collector, according to law. As there is error apparent on the face of the record in the order, dated 25.06.2014, in respect of the survey number, we are of the view that grant of stay will be only in respect of Survey No.753/1B and not in respect of Survey



Nos.694/1A, 1B and 694/3 for which permission was granted by the District Collector. Admittedly, there is no order granted in favour of the petitioner/appellant in respect of the aforesaid survey numbers, either in respect of title or possession of the property by the petitioner/appellant.

6. In the aforesaid circumstances, we are not inclined to grant stay in respect cutting of the trees standing on the lands in Survey Nos.694/1A, 1B and 694/3 for which permission was already granted by the District Collector. Interim stay granted only in respect of S.No.753/1B. With the above modification of the order, the miscellaneous petition is disposed of. Post the main writ appeal for final hearing on 04.02.2015"

2. In the light of the fact that there is an interim order operating since January, 2015, we do not propose to disturb such position, at this juncture and it would suffice to direct to dispose of the writ petition itself at an early date.

3. Accordingly, the writ appeal stands disposed of and the interim order granted on 20.01.2015 shall continue till the disposal of the W.P.(MD).No.17364 of 2013. Registry is directed to list the said writ petition for hearing before the appropriate Bench in the Month of June 2017. No costs.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To

- 1.The District Collector, Dindigul District, Dindigul.
- 2.The Tahsildar, Dindigul Taluk Office, Dindigul
- 3.The District Head Surveyor,  
Dindigul Taluk Office, Dindigul.

Copy to: The Section Officer, Writ Section,

Madurai Bench of Madras High Court, Madurai

+One cc to Mr.S.Ravi, Advocate, SR.No.50460

+One cc to The Special Government Pleader, SR.No.50233

jikr

RL/7C/4P/SV/MMS/24.4.2017

JUDGMENT MADE IN  
W.A. (MD) .No.19 of 2015