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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.07.2017
CORAM:
THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD) No.10942 of 2017

P.Muruganandam ... Petitioner

vs.

1. The District Collector,
   Ramanathapuram District,
   Ramanathapuram.

2. The Executive Officer,
   Panchayat Office,
   Muthukulathoor,
   Ramanathapuram District.

3. The Tahsildar,
   Tahsildar Office,
   Muthukulathoor,
   Ramanathapuram District.

4.C.Manikavasagam ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 3 to remove the illegal encroachment made by the fourth respondent in 5 feet width pathway in T.S.No.335/5B1 and 335/5B 2B, situated at 15th Ward Konnaiadi Vinayagar Kovil Street, Mela Muthugulathur Taluk, Ramanathapuram District on the basis of the notice issued by the 2nd respondent dated 16.11.2015 & 25.11.2015 in accordance with law within the time stipulated by this Court.

For Petitioner : Mr.S.D.Sadiqraja

For Respondents : Mr.T.S.Md.Mohideen
Addl. Govt. Pleader for R1 & R3
Mr.N.Dilipkumar for R2
Mr.M.Solaisamy for R4

O R D E R
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[Order of the Court was made by K.K.SASIDHARAN, J.]

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The petitioner filed this writ petition to direct the

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respondents 1 to 3 to take action against the respondent No.4 and remove the encroachment caused by him in respect of the public property in T.S.No.335/5B1 and 335/5B 2B, situated at 15th Ward Konnaiadi Vinayagar Kovil Street, Mela Muthugulathur Taluk, Ramanathapuram District.

2.The learned counsel for the petitioner contended that the encroachment was earlier removed by the respondents 2 and 3. However, the fourth respondent once again occupied the property in question and that is the reason for filing this writ petition.

3.The learned standing counsel for the second respondent, on instructions, submitted that the encroachment was removed earlier by the Panchayat with the help of the Tahsildar and police. However, the same property was encroached upon by the fourth respondent subsequently.

4.We direct the Tahsildar, the third respondent herein to survey the property in question once again on the basis of the revenue records. Survey should be conducted in the presence of the second respondent, the petitioner and the fourth respondent. The title deed of the petitioner shall also be verified by the Tahsildar while surveying the land. In case, it is made out that the fourth respondent is an encroacher and that the very same encroachment was earlier removed, the respondents 2 and 3 must ensure that the encroachment is once again removed.

5.We are passing this order on account of the submissions made by the petitioner that the encroachment made by the fourth respondent was earlier removed and he once again occupied the land in question. In case, such encroachment is removed and there is an attempt on the part of the fouth respondent to occupy the land again, necessarily the panchayat shall file a complaint with the jurisdictional Police and in such an event, the police must take action in accordance with law. In any case, before clearing the encroachment, reasonable opportunity should be given to the fourth respondent to submit his documents. Such exercise shall be completed with in a period of two months from the date of receipt of a copy of this order.

6.This writ petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar (AE)

/True copy/

Sub Assistant Registrar

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To
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   Ramanathapuram District.

3. The Tahsildar,
   Tahsildar Office,
   Muthukulathoor,
   Ramanathapuram District.

+1 CC to M/s.SADIQ RAJA, Advocate, SR No. 64833/17.
+1 CC to M/s.M.SOLAI SAMY, Advocate, SR No. 65532/17.
+1 CC to M/s.N.DILIP KUMAR, Advocate, SR No. 64903/17.
+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 65314/17.

ARUL/SKM
PSM/JC/SAR2/27.07.2017/3P/8C

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