



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2017

CORAM:

WEB COPY

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

W.P.[MD].No.11263 of 2017

M.Joharaammal

: Petitioner

Vs.

1. The District Collector,
District Collector Campus,
Trichirappalli.
2. The Assistant Director [Panchayat],
Tiruchirappalli.
3. The Special Officer/Block Development Officer,
Ilankakurichi Panchayat,
Vaiyapatti Union, Thiruchirappalli.
4. The Tahsildar,
Manaparai Taluk Office, Manaparai Taluk,
Thiruchirappalli District.
5. The Village Administrative Officer,
Vaiyapatti Village, Manparai Taluk,
Thiruchirappalli.
6. J.Abdul Ajeesh

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the third respondent to execute the order dated 16.05.2017 in Na.Ka.No.A2/1330/16, within a time stipulated by this Court.

For Petitioner : Mr.K.Neethimohan

For Respondents 1 to 5 : Mr.M.Govindan

Special Government Pleader

O R D E R

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



accepts notice for the respondents 1 to 5. In the light of the order, which we propose to pass in this Writ Petition, notice to the sixth respondent is dispensed with.

2. The petitioner seeks for a direction upon the third respondent to enforce his order dated 16.05.2017. The said order was passed by the third respondent, directing the sixth respondent to remove the encroachment.

3. It is the admitted case of the petitioner that the sixth respondent has filed a Suit in O.S.No.30 of 2017, on the file of the District Munsif Court, Manaparai, challenging the notice dated 16.05.2017. Therefore, at this juncture, this Court cannot issue any direction to the third respondent to implement the order dated 16.05.2017, since there is a challenge to the said order.

4. The learned counsel for the petitioner would submit that the said suit is not maintainable, since the action has been initiated under the provisions of the Tamil Nadu Land Encroachment Act, 1905 and there is a specific bar under Section 14 of the said Act.

5. In the light of the said submission, we dispose of this Writ Petition, giving liberty to the petitioner to approach the Civil Court, by raising the question of jurisdiction of the Civil Court, by filing appropriate application in the said suit and if such an application is filed, the Civil Court is directed to consider the same on merits and in accordance with law, within a period of thirty days from the date on which the pleadings are completed in the said application. No costs.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
District Collector Campus,
Trichirappalli.
2. The Assistant Director [Panchayat],
Tiruchirappalli.
3. The Special Officer/Block Development Officer,
Ilankakurichi Panchayat,
Vaiyapatti Union, Thiruchirappalli.



4. The Tahsildar,
Manaparai Taluk Office, Manaparai Taluk,
Thiruchirappalli District.

5. The Village Administrative Officer,
Vaiyapatti Village, Manaparai Taluk,
Thiruchirappalli.

Copy To:

The District Munsif,
Manaparai.

+ 1 CC TO Mr.K.NEETHIMOHAN, ADVOCATE IN SR No. 61132

NB

TE/SV-MMS/SAR-I : 30/06/2017 : 3P/8C

ORDER MADE IN
W.P. [MD] .No.11263 of 2017
19.06.2017