



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.12058 of 2017

WEB COPY

V.Sethuraman

.. Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Revenue Divisional Officer,
Ram Nagar, Devakottai,
Sivagangai District.

3.The Tahsildar,
Devakottai, Sivagangai District.

4.The Revenue Inspector,
Kannankudi, Devakottai Taluk,
Sivagangai District.

5.The Village Administrative Officer,
No.40, Kandiyur Group
Devakottai Taluk,
i/c 47, Sadayamangalam,
Sivagangai District.

6.Periyathambi

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 3 herein to forthwith remove the encroachment of the 6th respondent from S.No.93 measuring 2.47 acres situated in Meenambur Village, Sadayamangalam Group, Devakottai Taluk, Sivagangai District.

For petitioner : Mr.K.Saravanan

For R1 to R5 : Mr.T.S.Mohammed Mohideen
Additional Government Pleader

For R6 : Mr.Arun Swaminathan for
Mr.K.N.Govarthan

**ORDER**

[Order of the Court was made by **K.K.SASIDHARAN, J.**]

The petitioner filed this writ petition to direct the respondents 1 to 5 to remove the encroachment stated to have been made by the sixth respondent in respect of the property in Survey No.93 measuring 2.47 acres situated in Meenambur Village, Sadayamangalam Group, Devakottai Taluk, Sivagangai District.

2.The counter affidavit filed by the Tahsildar, Devakottai indicates that 15 persons are identified as encroachers out of 16 encroachers. Except the 6th respondent, all other encroachers have been removed.

3.According to the Tahsildar, Devakottai, the 6th respondent filed a civil suit in O.S.No.45 of 2016 on the file of the District Munsif Court, Devakottai and obtained an exparte interim injunction and that was the reason for keeping the proceedings against him pending.

4.We direct the Tahsildar, Devakottai to take further action for removal of encroachment in respect of the property in Survey No.93, which is classified as Grazing Ground. Since the civil Court is not having jurisdiction to entertain a suit in a matter like this, it is open to the Tahsildar, Devakottai to remove the encroachment notwithstanding the pendency of the civil suit in O.S.No.45 of 2016 on the file of the District Munsif Court, Devakottai.

5.There is a statutory bar contained under Section 14 of the Tamil Nadu Land Encroachment Act, 1905, for entertaining the civil suit in a matter covered under the provisions of the said Act. We are not in a position to understand as to how the learned District Munsif, Devakottai, entertained the civil suit in a matter covered under the provisions of Tamil Nadu Land Encroachment Act 1905.

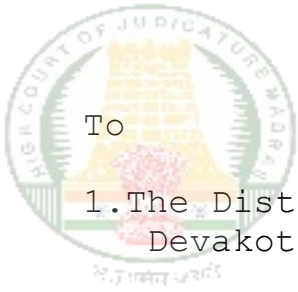
6.We, therefore direct the learned District Munsif, Devakottai, to decide the issue with regard to the maintainability of the suit in O.S.No.45 of 2016 as expeditiously as possible and in any case, within a period of fifteen days from the date of receipt of a copy of this order.

7.The writ petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar

/True copy/



To

1.The District Munsif Court,
Devakottai.

2.The District Collector,
Sivagangai District,
Sivagangai.

3.The Revenue Divisional Officer,
Ram Nagar, Devakottai,
Sivagangai District.

4.The Tahsildar,
Devakottai, Sivagangai District.

5.The Revenue Inspector,
Kannankudi, Devakottai Taluk,
Sivagangai District.

6.The Village Administrative Officer,
No.40, Kandiyur Group
Devakottai Taluk,
i/c 47, Sadayamangalam,
Sivagangai District.

+1cc to M/s.Special Government Pleader,SR.73072

+1cc to Mr.K.N.Govardhanan,Advocate,SR.72780

+1cc to Mr.B.Muruganandam,Advocate,SR.72782

W.P (MD) No.12058 of 2017
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