



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2017

CORAM :

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13008 of 2017
and
W.M.P(MD).No.10074 of 2017

Palanichamy

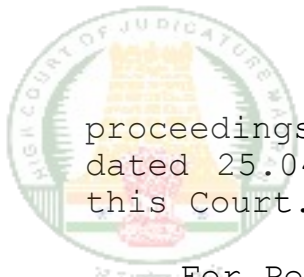
... Petitioner

vs.

- 1.The District Collector,
Theni District,
Theni.
- 2.The Revenue Divisional Officer,
Periyakulam,
Periyakulam Taluk,
Theni District.
- 3.The Tahsildar,
Periyakulam,
Periyakulam Taluk,
Theni District.
- 4.The Assistant Director,
Office of the District Land Survey,
Theni, Theni District.
- 5.The Executive Officer/ Special Officer,
Vadugapatti Selection Grade Town Panchayat,
Vadugapatti, Periyakulam Taluk,
Theni District.
- 6.V.Angayarkanni
- 7.Vijayalakshmi
- 8.K.Bhuvaneswari

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1 to 5 herein to remove the encroachment made by the Respondents 6 to 8 herein on the Nadar Street, comprised in Survey No.3217/24, Sedapatti, Tamaraikulam Village Bit 1, Periyakulam Taluk, Theni District as found in the



proceedings of the Respondent No.4 herein in Na.Ka. No.A3/1355/2017, dated 25.04.2017 within the stipulated time that may be fixed by this Court.

For Petitioner : M.D.Sivaraman

For Respondents : Mr.M.Govindan, Spl.GP RR1 to 4
Mr.M.Murugan for R5
Mr.M.Prabhu for Mrs.Porkodi Karnan
for RR6 to 8

O R D E R

(Order of the Court was made by G.R.SWAMINATHAN, J)

The writ petitioner seeks a direction for removing the encroachments stated to have been made by the respondents 6 to 8 on Nadar Street, comprised in Survey No.3217/24, Sedapatti, Thamaraiikulam Village Bit 1, Periyakulam Taluk, Theni District.

2.The writ petitioner placed reliance on the proceedings dated 25 April 2017 issued by the Assistant Director, District Land Survey, Theni, the fourth respondent herein. During the course of the proceedings, the official respondents took the stand that both the writ petitioner as well as the private respondents have committed encroachments. Thereupon, the matter was adjourned and during the next hearing, the learned counsel for the petitioner reported that the petitioner had removed his encroachments, but that the private respondents have not done so.

3.The learned counsel for the respondents 6 to 8 contended that the survey exercise and measurements took place behind their back and that therefore, the proceedings dated 25 April 2017 of the fourth respondent and the proceedings dated 08 July 2017 issued by the third respondent cannot be relied upon. We do not want to go into the rival contentions in order to give any findings on merits.

4.We direct the third and fifth respondents to undertake survey of the disputed land. Prior notice should be given to the petitioner as well as the private respondents before undertaking the exercise of survey and measurement. If it is seen during such exercise that there is encroachment, action shall be taken to remove the same by following due process of law. In other words, it is open to the alleged encroachers to lodge their objections. The respondents 3 and 5 are directed to follow the statutory procedure in the matter of removal of encroachment, if any.

5.The learned counsel for the petitioner alleged that the private respondents are continuing to carry on their construction. We therefore make it clear that there would not be any equity in favour of the respondents 6 to 8 in the event of the authorities arriving at a finding that the property in question is a public pathway. In such any event, the offending constructions will have



to be removed.

6. With this observation, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Theni District, Theni.
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Periyakulam,
Periyakulam Taluk,
Theni District.
3. The Tahsildar,
Periyakulam,
Periyakulam Taluk,
Theni District.
4. The Assistant Director,
Office of the District Land Survey,
Theni, Theni District.
5. The Executive Officer/ Special Officer,
Vadugapatti Selection Grade Town Panchayat,
Vadugapatti, Periyakulam Taluk,
Theni District.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No.70280

+1cc to Mr.D.SIVARAMAN Advocate in SR. No.69939

SKM/ARUL

JS/KP/SAR.1/22.08.2017/ 3P-8C

W.P (MD) No.13008 of 2017

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