



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 01.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE P.KALAIYARASAN

W.P (MD) No.1552 of 2017

G.Amsaveni

.. Petitioner

Vs.

1.The District Collector,  
Virudhunagar District, Virudhunagar.

2.The Commissioner,  
Srivilliputhur Municipality,  
Srivilliputhur, Virudhunagar District.

3.Dr.Manokaran

4.Jekanthprabhu

5.Ganesh Kannan .. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 1 and 2 herein to remove the encroachment put up by the respondents 3 to 5 herein in the common lane situated in the east-west direction with the width of 6 feet comprised in T.S.No.1479 at Nachiyar Sannathi Street, Srivilliputhur, Virudhunagar District.

For Petitioner : Mr.P.Subbaraj

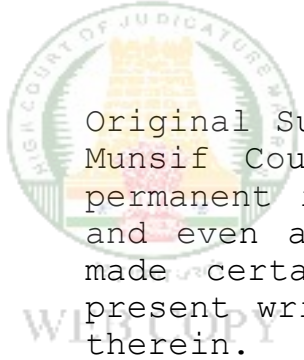
For Respondents 1 and 2 : Mr.M.Govindan,  
Special Government Pleader.

ORDER

[Order of the Court was made by A.SELVAM, J.]

This writ petition has been filed under Article 226 of the Constitution of India praying to direct the respondents 1 and 2 to remove encroachments alleged to have been made by the remaining respondents in T.S.No.1479, Nachiyar Sannathi Street, Srivilliputhur, Virudhunagar District, by way of issuing a writ of mandamus.

2.It is averred in the petition that the petitioner is a resident of Nachiyar Sannathi Street, Srivilliputhur, Virudhunagar District, wherein T.S.No.1479 has been classified as common lane and in respect of the same, the petitioner as plaintiff has filed



Original Suit No.177 of 2007 on the file of the Additional District Munsif Court, Srivilliputhur for the reliefs of declaration and permanent injunction, wherein an executable decree has been passed and even after passing the decree, the remaining respondents have made certain encroachments. Under the said circumstances, the present writ petition has been filed for getting the relief sought therein.

3.Mr.M.Govindan, learned Special Government Pleader, has taken notice for the respondents 1 and 2. Considering the nature of the relief sought in the writ petition and also considering the fact that already an executable decree has been passed in Original Suit No.177 of 2007, notice need not be sent to the remaining respondents.

4.The learned counsel appearing for the petitioner has repeatedly contended to the effect that the petitioner as plaintiff has instituted Original Suit No.177 of 2007 on the file of the Additional District Munsif Court, Srivilliputhur for the reliefs of declaration and permanent injunction in respect of T.S.No.1479, wherein an executable decree has been passed and even after passing the decree, the remaining respondents have encroached the common lane and under the said circumstances, the present writ petition has been filed for getting the relief sought therein.

5.As adverted to earlier, the admitted fact is that the present petitioner and others as plaintiffs have instituted Original Suit No.177 of 2007 on the file of the Additional District Munsif Court, Srivilliputhur for the reliefs of declaration and permanent injunction in respect of T.S.No.1479, Nachiyar Sannathi Street, Srivilliputhur, Virudhunagar District, wherein an executable decree has been passed.

6.Considering the fact that in Original Suit No.177 of 2007, an executable decree has been passed and the alleged encroachments have been made subsequently, this Court is of the considered view that the petitioner is having an efficacious relief by way of approaching the same civil Court for redressing her grievance. Without availing the said legal opportunity, the petitioner has moved this Court by way of filing this writ petition and therefore the relief sought in the writ petition cannot be granted.

7.In fine, this writ petition is dismissed without costs. However the petitioner is at liberty to institute proper proceedings before the concerned Court which passed an executable decree in Original Suit No.177 of 2007.

Sd/-

Assistant Registrar(CO)

/True Copy/



1.The District Collector,  
Virudhunagar District, Virudhunagar.

2.The Commissioner,  
Srivilliputhur Municipality,  
Srivilliputhur, Virudhunagar District.

+1cc to M/s.P.SUBBARAJ Advocate in SR. No.5594  
+1cc to Special Government Pleader in SR. NO.5683

smn  
JS/BS/09.02.2017/3P-5C

ORDER MADE IN  
W.P (MD) No.1552 of 2017  
01.02.2017