



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.03.2017**

CORAM:

THE HONOURABLE **MR.HULUVADI G.RAMESH,**
THE ACTING CHIEF JUSTICE

AND

THE HONOURABLE **MR.JUSTICE T.S.SIVAGNANAM**
W.P. (MD) .No.4230 of 2017

Asanammal : Petitioner

Vs.

1.The Assistant Divisional Engineer,
Highways Department,
SM Complex, Tenkasi, Tirunelveli District.

2.The Commissioner,
Kadayanallur Municipality,
Municipality Office, Kadayanallur,
Tirunelveli.

3.The Inspector of Police,
Kadayanallur Police Station,
Tirunelveli.

4.Sethu : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents 1 to 3 herein, their men and subordinates or any other persons claiming through them from evicting the petitioner's petty shop located in Madurai Main Road, Kadayanallur, Tirunelveli, without following the due process of law.

For Petitioner : Mr.A.Sivasubramanian

For Respondents 1 to 3: Mr.T.S.Mohammed Mohideen
Additional Government Pleader

**O R D E R**

[Order of the Court was made by

The Hon'ble The Acting Chief Justice]

Heard the learned counsel for the petitioner, Mr.T.S.Mohammed Mohideen, learned Additional Government Pleader, who takes notice for the respondents 1 to 3.

2. The present Writ Petition has been filed seeking a Writ of Mandamus forbearing the respondents 1 to 3 herein, their men and subordinates or any other persons claiming through them from evicting the petitioner's petty shop located in Madurai Main Road, Kadayanallur, Tirunelveli, without following the due process of law.

3. The case of the petitioner is that he is running a petty shop at Madurai Main Road and he had paid the license fee for the year 2016 - 2017 to the second respondent. However, on 23.02.2017, the fourth respondent herein, claiming to be the owner of certain lands situated behind the petty shop of the petitioner, asked him to vacate the petitioner. In this regard, the petitioner made a representation before the third respondent. However, the third respondent informed that the petitioner is an encroacher of the land in question and he has to vacate the same, failing which necessary action would be taken to remove the encroachment. Under the above stated circumstances, the petitioner is before this Court with the Writ Petition.

4. The learned Additional Government Pleader appearing for the respondents 1 to 3, on instructions, submitted that there is a dispute between the petitioner and the fourth respondent herein regarding the land in question and the respondents authorities are not interfering with the same.

5. In our considered view, when there is a dispute between the petitioner and the fourth respondent herein, regarding the alleged encroachment, it is for the petitioner to approach the competent Civil Court for appropriate relief and the present Writ Petition cannot be entertained. However, it is made clear that the respondents authorities *suo motu* cannot take any action against the petitioner.

6. The Writ Petition is disposed of with the above observation. No costs.

Sd/-

Assistant Registrar(CO)

/True Copy/



To

1.The Assistant Divisional Engineer,
Highways Department,
SM Complex, Tenkasi, Tirunelveli District.

2.The Commissioner,
Kadayanallur Municipality,
Municipality Office, Kadayanallur,
Tirunelveli.

3.The Inspector of Police,
Kadayanallur Police Station,
Tirunelveli.

+1 cc to MR.A.SIVASUBRAMANIAN, Advocate SR.No.14648

+1 cc to Special Government Pleader SR.No.14689

**ORDER MADE IN
W.P. (MD) .No.4230 of 2017
14.03.2017**

SMA/SV-MMS/20.03.2017:3P/6C