



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.05.2017

CORAM:

THE HONOURABLE Mr. JUSTICE M.V.MURALIDARAN
and
THE HONOURABLE Mr. JUSTICE N.SESHASAYEE

Writ Petition (MD)No.8971 of 2017

&

W.M.P. (MD)No.6854 of 2017

Arulanthu, S/o.Vallatharasu

... Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Tahsildar,
Ilayankudi,
Sivagangai District.

3.The Revenue Inspector,
Sooranam,
Sivagangai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice issued by the third respondent, dated 26.04.2017 and quash the same and consequently, direct the respondents not to take any coercive steps for the removal of the alleged encroachment in Natham Survey No.129/8, which was wrongly classified as Street till the disposal of the Civil Suit in O.S.No.10 of 2016, on the file of the District Munsif Court, Ilayankudi.

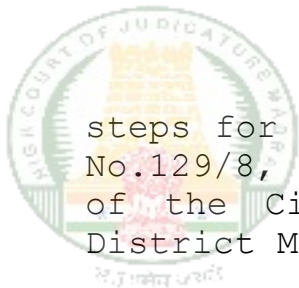
For Petitioner : Mr.B.Prahalad Ravi

For Respondents : Mr.M.Alagadevan
Special Government Pleader

ORDER

Order of the Court was made by **M.V.Muralidaran, J.,**)

The petitioner has come forward with this writ petition seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice issued by the third respondent, dated 26.04.2017 and quash the same and consequently, direct the respondents not to take any coercive



steps for the removal of the alleged encroachment in Natham Survey No.129/8, which was wrongly classified as Street till the disposal of the Civil Suit in O.S.No.10 of 2016, on the file of the District Munsif Court, Ilayankudi.

2.Mr.B.Prahalad Ravi, learned counsel for the petitioner contended that the property comprised in Natham Survey No.129/8, situated at Kalankathankottai Village & Post, Ilayankudi Taluk, Sivagangai District, is an absolute property of the petitioner and the same has been in his possession and enjoyment from time immemorial and he is enjoying the same along with appurtenant house property and the said property was originally belonged to his grandfather Savarimuthu Nadar and he purchased the same for valuable sale consideration by sale deed, dated 12.06.1919. Subsequent to the death of his grandfather, the property was devolved on his father, namely, Vallatharasu and thereafter, it was devolved on the petitioner. It is further contended that since the respondents were wrongly classified the said property as a Street, the petitioner filed a Civil Suit in O.S.No.10 of 2016 before the District Munsif Court, Ilayankudi, against the respondents, for the relief of declaration and permanent injunction and the respondents were set ex-parte and they filed an application to set aside the ex-parte decree and the same is pending adjudication. In the meanwhile, the third respondent issued the impugned notice for removal of encroachment in the property, which is subject matter of the Civil Suit and without jurisdiction. Hence, the petitioner is constrained to approach this Court by way of filing the present Writ Petition with the above said prayer.

3.Heard Mr.M.Alagadevan, learned Special Government Pleader, on the submissions made by the learned counsel for the petitioner.

4.Considering the abovesaid submissions made by the learned counsel for the petitioner, this Writ Petition is allowed by setting aside the impugned order dated 26.04.2017, passed by the third respondent and the matter is remanded back to the revenue authorities to take appropriate action under the Tamil Nadu Land Encroachment Act. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Vacation officer

/True Copy/

Sub Assistant Registrar

To:

1.The District Collector,
<https://hcservices.ecourts.gov.in/hcservices/>
Sivagangai District,
Sivagangai.



2.The Tahsildar,
Ilayankudi,
Sivagangai District.

3.The Revenue Inspector,
Sooranam,
Sivagangai District.

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