



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 11.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE P.KALAIYARASAN

W.P (MD) No.24290 of 2016
and M.P (MD) Nos.17548 of 2016 &
357 of 2017

R.Gothanda Raman

.. Petitioner

Vs.

1.The Thasildar,
Vembakkottai Taluk,
Virudhunagar District.

2.The Block Development Officer,
Vembakkottai Union,
Vembakkottai,
Virudhunagar District.

3.K.Kadarkarai

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned order of the first respondent in Na.Ka.No.A2/355/2016, dated 07.12.2016 and quash the same and further direct the respondents to await for the decision of the civil Court in O.S.No.119 of 2016 on the file of the District Munsif Court, Sivakasi and thereafter proceed with and pas such further or other orders.

For Petitioner : Mr.N.Balasubramanian

For R - 1 : Mr.D.Muruganantham
Additional Government Pleader

For R - 2 : Mr.R.Velmurugan

For R - 3 : Mr.M.Muthugeethayan

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 for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned order, dated 07.12.2016 passed in Na.Ka.No.A2/355/2016 by



the first respondent and quash the same by way of issuing a Writ of Certiorarified Mandamus.

2.It is averred in the petition that the petitioner is a resident of T.Karisalkulam. The first respondent has passed the impugned order, dated 07.12.2016, whereby directed the second respondent to take appropriate action in respect of encroachments which are in existence in Survey No.737/1. Under the said circumstances, for quashing the impugned order, the present Writ Petition has been filed.

3.The learned counsel appearing for the petitioner has contended that the property of the petitioner is situate in Survey No.737/35. On its Southern side, there is a Government road. But the first respondent, without considering the above factual aspects, has issued the impugned order. Under the said circumstances, the impugned order is liable to be quashed.

4.The learned Additional Government Pleader appearing for the first respondent and the learned counsel appearing for the second respondent have uniformly contended that the impugned order has been passed only in respect of Survey No.737/1 and in fact, the petitioner as plaintiff has filed a Original Suit in respect of some other survey number. Since in the survey number mentioned in the impugned order, the petitioner is not having any tangible interest, the petitioner is not entitled to maintain the present petition and therefore, the same is liable to be dismissed.

5.It is an admitted fact that the first respondent has issued notice, dated 07.12.2016 only in respect of Survey No.737/1 and the same has been classified as Government road. In the impugned order, it has been specifically stated that there are certain encroachments in Survey No.737/1 and therefore, the second respondent is directed to remove the same as per law.

6.Considering the fact that the petitioner is the owner of the house which situates in Survey No.737/35 and also considering that in the revenue records it has been clearly stated that Survey No.737/1 is nothing but Government road, this Court is of the view that the petitioner has had no connection whatsoever with the impugned order. But the petitioner has filed the present Writ Petition unnecessarily. Further, the survey number mentioned in the suit is not related to the present Survey No.737/1. Therefore, viewing from any angle, the relief sought in the Writ Petition cannot be granted and altogether, the present Writ Petition deserves to be dismissed.



7. In fine, this Writ Petition is dismissed with costs. Consequently, connected Miscellaneous Petitions are also dismissed.

WEB COPY

Sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

1. The Thasildar,
Vembakkottai Taluk,
Virudhunagar District.
2. The Block Development Officer,
Vembakkottai Union,
Vembakkottai,
Virudhunagar District.

+One cc to Mr.N.Balasubramanian, Advocate, SR.No.2449
+One cc to Mr.R.Velmurugan, Advocate, SR.No.2904
+One c to M/s.M.Muthugeethayan, Advocate, SR.No.2297
+One cc to The Special Government Pleader, SR.No.2542

ps
RL/7C/3P/SS2/KSM/SARI/23.1.2017

ORDER MADE IN

W.P (MD) No.24290 of 2016

11.01.2017