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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2017

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Writ Petition (MD) No.3695 of 2013

and

M.P(MD)No.1 of 2013

Ramachandran

... Petitioner

Vs.

1.The District Collector,
Pudukottai District,
Pudukottai.

2.The Assistant Director (Panchayats),
Collector Office,
Pudukottai.

3.The Block Development Officer,
Panchayat Union Office,
Gandarvakottai Office,
Pudukottai District.

4.The President,
Gandarvakottai Panchayat Board,
Gandarvakottai,
Pudukottai District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to forbear the respondents from putting up any construction in Survey No. 367/1 of Koviloor Village Gandarvakottai Taluk Pudukkottai District.

For Petitioner : Mr.K.Baalasundharam

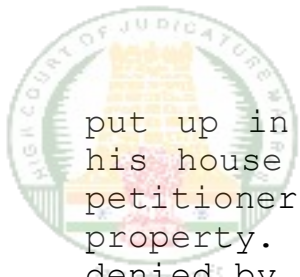
For Respondents 1&2 : Mr.S.Satheeshkumar,
Additional Government Pleader.

For Respondents 3 &4 : No appearance

ORDER

The petitioner seeks mandamus forbearing the respondents from putting up any construction in the land in Survey No.367/1, Koviloor Village, Gandarvakottai Taluk, Pudukkottai District.

2.Admittedly, Survey No.367/1 has been classified as natham land. According to the petitioner, the said property was ~~advised to put up by his father~~ under two registered sale deeds dated 14.06.1949 and 31.08.1956. Both the documents do not contain any survey numbers. The petitioner claims that if any construction is



put up in Survey No.367/1, it will obstruct the right of way to his house at Survey No.367/2. In other words, the claim of the petitioner is that he has got a right of easement over the said property. The said right of easement claimed by the petitioner is denied by the respondents.

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3.It is well settled law that the right of easement is to be established by evidence. Hence, this Court while sitting under Article 226 of the Constitution of India, cannot decide factual dispute, that too, regarding the right of easement. It is also seen from the records that the petitioner has filed a suit earlier and has chosen to withdraw the same. Though it is claimed that the suit was withdrawn on an assurance given by the panchayat President, namely, the fourth respondent herein, there is no indication of such assurance having been given by the fourth respondent in the order passed by the Civil Court. Hence, I do not see any reason to grant mandamus as prayed for. Accordingly, the writ petition stands dismissed. However, it is open to the petitioner to work out his remedy in the manner known to law. No costs. Consequently, M.P(MD)No.1 of 2013 is closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1.The District Collector,
Pudukottai District,
Pudukottai.

2.The Assistant Director (Panchayats),
Collector Office,
Pudukottai.

3.The Block Development Officer,
Panchayat Union Office,
Gandarvakottai Office,
Pudukkottai District.

+1 cc to Special Government Pleader, in SR.No. 14099

sms

AE/RR/23.03.2017/2P/5C

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and

M.P (MD) No.1 of 2013
10.03.2017