

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:27.02.2018

C O R A M

THE HON'BLE Mr.JUSTICE K. RAVICHANDRABAABU

W.P.No.4312 of 2018

P.Jagadeeswaran

...Petitioner

vs

1.The District Collector,
Erode.

2.The Revenue Divisional Officer,
Erode.

3.The Revenue Tashildar,
Erode.

4.The Zonal Deputy Tashildar III,
Erode.

...Respondents

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the records relating to the Order in Na.Ka.15644/2012/A6 dated 19.12.2017 passed by the third respondent and quash the same and to direct the respondents to inspect the premises at T.S.No.150 where the two trees are planted and conduct enquiry and take appropriate action for cutting and removing the said two trees within the time limit fixed by this Court.

For petitioner : M/s.S.Rajeni Ramadass

For Respondents : Mr.D.Suriya Narayanan for R1 to R4
Additional Government Pleader

O R D E R

Mr.D.Suriya Narayanan, learned Additional Government Pleader takes notice for the respondents. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the order of the third respondent dated 19.12.2017, rejecting the request of the petitioner to remove two trees standing adjacent to his property.

3.Heard both sides.

4.The petitioner claims that those two trees caused damage to his house and therefore, they have to be removed by these respondents, since they are standing in the Government property. The petitioner, in fact, approached this Court earlier and filed a writ petition in W.P.No.25958 of 2017, seeking for a direction to the respondents to inspect the premises and conduct an enquiry and thereafter, to take appropriate action for cutting and removing the said trees. The said writ petition was disposed of on 04.10.2017 as follows:

"4. The grievance of the petitioner is that those two trees are causing threat to the petitioner's building and therefore, they have to be removed. It is stated that the representation made by the petitioner as early as in the year 2012 has not been considered so far. It is further stated that the 2nd respondent has already issued a direction to the 3rd and 4th respondents to take action and however, they have not taken action so far.

5. This Court, at this stage, is not inclined to express any view on the merits of the claim made by the petitioner as it is for the concerned authorities, namely 3rd and 4th respondents, to inspect the property and take action accordingly. Thus, this writ petition is disposed of only by directing the 3rd and 4th respondents to inspect the subject matter property and take action accordingly without loss of further time as it is stated that the petitioner's request was made as early as in the year 2012. Such exercise shall be done by the 3rd and 4th respondents within a period of two weeks from the date of receipt of a copy of this order. Accordingly, the writ petition is disposed of. No costs. "

Thereafter, the officials inspected the site and found that those two trees are standing in a private property in T.S.No.150, which belongs to one Subramaniam and 11 others. It is also specifically found by the respondents that the said land is not a Government poramboke land and hence, these respondents cannot remove the trees standing in a private land. Stating all these reasons, the third respondent passed the impugned order. When such being the factual finding rendered by the respondents, it is for the petitioner to agitate the matter before the competent Civil Court against those private individuals by filing appropriate proceedings. Though the learned counsel for the petitioner sought to contend that the said finding of the respondents are not correct, since this Court is of the view that all these factual contentions can be raised by the petitioner in a civil proceedings, I am not inclined to entertain the writ petition. Accordingly, the writ petition is disposed of, by granting liberty to the petitioner to agitate

the matter before the competent Civil Court by filing civil suit against appropriate parties. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vri

To

1.The District Collector,
Erode.

2.The Revenue Divisional Officer,
Erode.

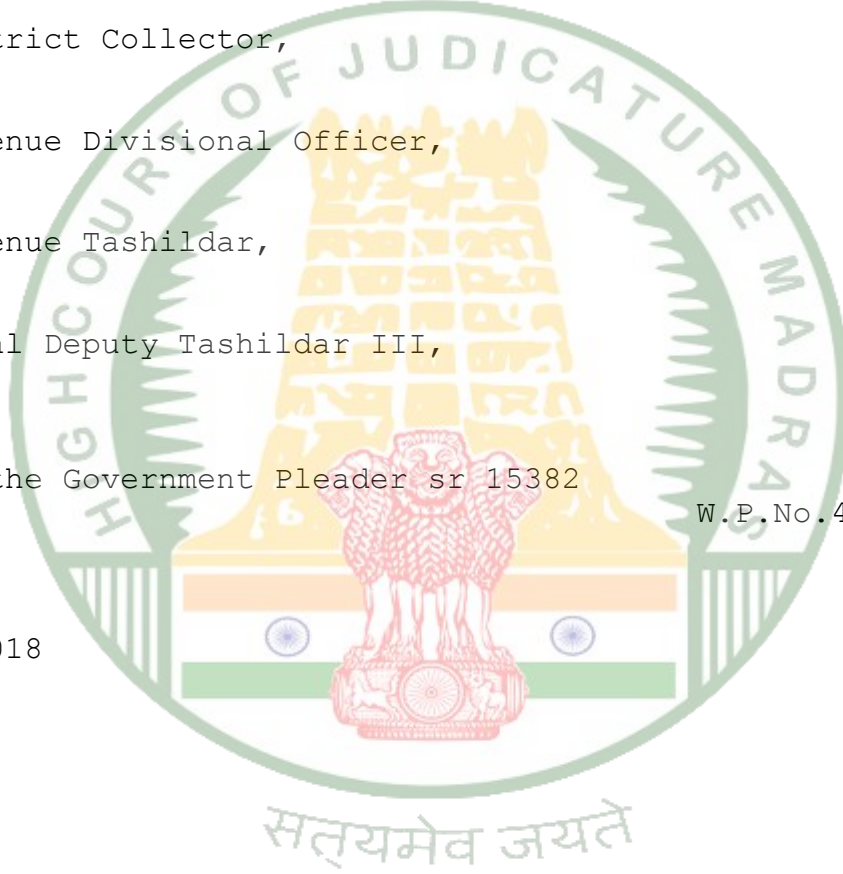
3.The Revenue Tashildar,
Erode.

4.The Zonal Deputy Tashildar III,
Erode.

+1 cc to the Government Pleader sr 15382

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