

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:26.03.2018

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL

AND

THE HONOURABLE Mr. JUSTICE S.VAIDYANATHAN

W.P.No.218 of 2018

N.Venkatesan

.. Petitioner

Vs.

1.The District Collector,
Collectorate, Vellore District.

2.The Sub-Divisional Magistrate
cum - Sun Collector,
Thiruppathur, Vellore District.

3.The Tahsildar,
Office of Tahsildar,
Thiruppathur.

4.The Deputy Zonal Tahsildar,
Thiruppathur.

5.The Inspector of Police,
Jolarpettai Police Station,
Vellore District.

6.Viswanathan

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the Respondents 3 to 5 herein to remove the encroachment made by the 6th Respondent herein and his family members in the common passage lane comprised in Survey No.461/1, 461/17, 461/18, 461/8 Karuppanur Village, Thiruppathur Taluk, Vellore District, within a stipulated time frame.

For Petitioner : Mr.D.Ravichander

For RR 1 to 5 : Mr.A.N.Thambidurai
Special Government Pleader

For 6th Respondent : Mr.R.Ramesh

O R D E R

[Order of the Court was made by S.VAIDYANATHAN, J.]

The Petitioner has come forward with this Writ Petition praying for issuance of a Writ of Mandamus directing the Respondents 3 to 5 to remove the encroachment made by the 6th Respondent and his family members in the common passage lane comprised in Survey No.461/1, 461/17, 461/18, 461/8 Karuppanur Village, Thiruppathur Taluk, Vellore District.

2.According to the Petitioner, there has been unauthorised construction by the 6th Respondent in Survey Nos.461/1, 461/2, 461/3, 461/8, 461/17 and 461/18 Karuppanur Village, Thiruppathur Taluk, Vellore District and that the construction has been made in a common passage. According to him, the encroachments have got to be removed and that in Survey Nos.461/17 and 461/18, the entire encroachments have been removed. In so far as the Survey No.461/8 is concerned, there is a projection of temporary sheet, which alone has not been removed. In so far as the Survey No.461/1 is concerned, the 6th Respondent had made a misrepresentation and the land has been usurped by the 6th Respondent and that the Petitioner does not have a title to the property. He further contended that with regard to Survey Nos.2 and 3, the Petitioner and the 6th Respondent and his relatives are occupying the place.

3.The learned counsel appearing for the official Respondents submitted that the entire encroachments in Survey Nos.461/8, 461/17 and 461/18 and 461/1 have been removed and that if there is any encroachment as pointed out by the Petitioner in Survey No.461/8, he is willing to instruct the officials to remove the encroachment.

4.The learned counsel for the 6th Respondent submitted that the 6th Respondent has filed a Civil Suit in O.S.No.409 of 2010 before the District Munsif Court at Thirupattur for permanent injunction, which was decreed on 02.07.2007 and in A.S.No.13 of 2008, the Sub Court, Thirupattur has allowed the same on 25.03.2011 and the said suit pertains to Survey No.461/2. He further contended that there is no relief sought for by the Petitioner with regard to Survey No.461/2 and 461/3 in the present Writ Petition and that the entire encroachments alleged by the Petitioner have been removed by the officials and the contention that the Petitioner has no title to the property in Survey No.461/1 is not correct.

5.Heard the learned counsel appearing for the Petitioner and the learned Special Government Pleader appearing for the

Respondents 1 to 5 and the learned counsel for the 6th Respondent.

6. Taking note of the fact that the entire encroachments have been removed in Survey Nos. 461/17, 461/18 and which has been projecting on the road in Survey No. 461/8, it is open to the official Respondents to remove the sheet that is projecting on the street, within a period of one week from the date of receipt of a copy of this order, if not already removed. Whether the 6th Respondent is having a title to the property in Survey No. 461/1 or not cannot be gone into in this Writ Petition as it has got to be looked into by the official Respondents and thereafter, a decision got to be taken. If there is no title to the property and if any action is taken, it is open to the official Respondents to hear the Writ Petitioner also before a final decision is taken with regard to Survey No. 461/1 as stated supra. As there is no relief sought for in Survey Nos. 461/2 and 461/3, the plea made by the Petitioner cannot be granted.

7. With the aforesaid observation (s), the Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

Sgl
To

1. The District Collector,
Collectorate, Vellore District.

2. The Sub-Divisional Magistrate
cum - Sun Collector,
Thiruppathur, Vellore District.

3. The Tahsildar,
Office of Tahsildar,
Thiruppathur.

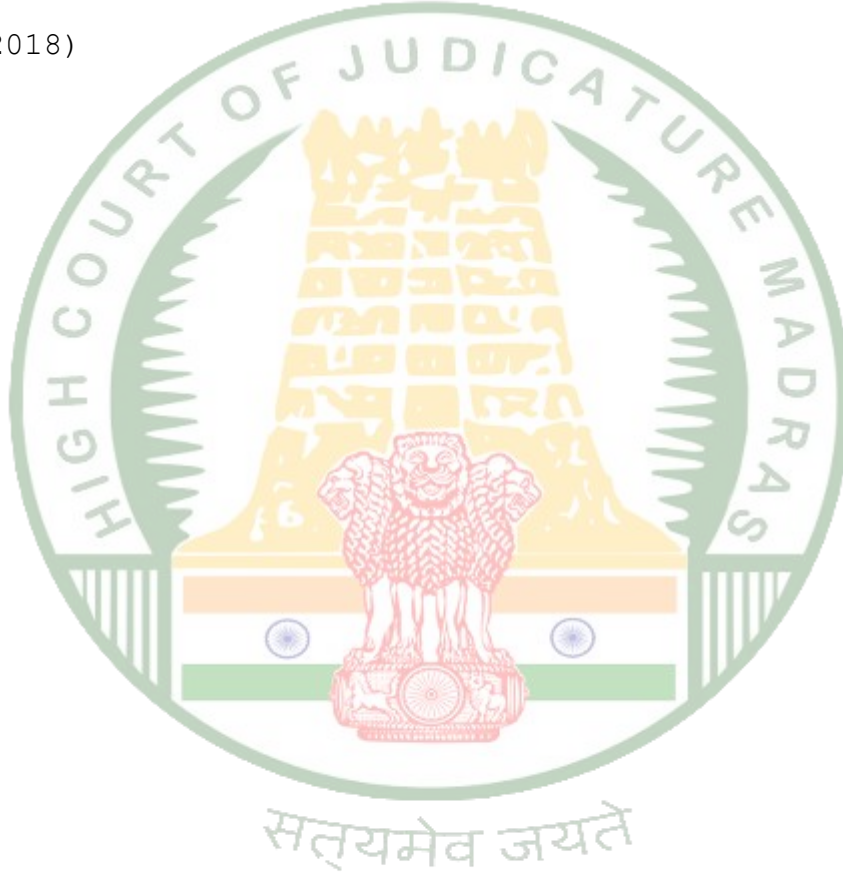
4. The Deputy Zonal Tahsildar,
Thiruppathur.

5.The Inspector of Police,
Jolarpettai Police Station,
Vellore District.

+1cc to Mr.R.RAMESH, Advocate, S.R.No.22993
+1cc to Mr.D.RAVICHANDER Advocate, S.R.No. 23992
+1cc to the Government Pleader, S.R.No. 23341

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SSV(CO)
TR(23/04/2018)



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