

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.17871 of 2018

A.Appavu ... Petitioner

Vs

1. The District Collector,
Villupuram District, Villupuram.

2. The Tahsildhar,
Ulundurpet Taluk,
Villupuram District.

3. R.Rajamanickam ... Respondents

PRAYER :

Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 and 2 to consider the petitioner's representation dated 02.04.2018 sent for removal of the encroachment made into the Government land in Survey No.172 by the 3rd respondent for the petitioner's access into the petitioner's property, situated in Nathamur Village, Ulundurpet Taluk, Villupuram District in Survey No.168/8, to an extent of acre 1.65 cents.

For Petitioner : Mr.R.Thanjan

For Respondents : Mr.R.Udhaya Kumar
Additional Government Pleader

ORDER

The petitioner is the owner of the property situated in Nathamur Village, Ulundurpet Taluk, Villupuram District, bearing Patta No.70, comprised in Survey No.168/8, to an extent of Acre 1.65 cents, out of Acres 3.30 Cents together with 0.01 Cents adjacent to the well by virtue of a Settlement Deed dated 29.09.2011. Grievance of the petitioner is that the 3rd respondent encroached upon the land and cultivating sugarcane, to an extent of 1.20 cents comprised in Survey No.172, which was

used as access. Therefore, the petitioner gave a representation on 02.04.2018 to respondents 1 and 2 about the removal of the encroachment made by the 3rd respondent in the said property.

2.Heard, Mr.R.Thanjan, learned counsel for the petitioner and Mr.R.Udhaya Kumar, learned Additional Government Pleader, who would contend that the petitioner had already filed WP.No.23871 of 2017 and he withdrew the said Writ Petition with liberty to invoke the provisions under the Right to Information Act, 2005, to find out about the status of his representation and also to avail the common law remedy. Thereafter only the present Writ Petition has been filed.

3.A perusal of the affidavit, especially, paragraph 7 would indicate that a Writ Petition viz., W.P.No.23871 of 2017 has been filed and subsequently, withdrawn also. There is no document filed by the petitioner to prove that the land allegedly encroached upon the 3rd respondent is a poromboke land. In the absence of any document to that effect, this Court cannot issue any direction as prayed for. However, it is open to the petitioner to approach the Civil Court to work out his remedy, provided the petitioner has any documentary proof that the 3rd respondent encroached upon poromboke land.

With the above liberty this Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sai

To

1. The District Collector,
Villupuram District, Villupuram.
2. The Tahsildhar,
Ulundurpet Taluk, Villupuram District.

+1cc to Mr.R.Thanjan, Advocate, S.R.No.46909
+1cc to the Government Pleader, S.R.No.47597

W.P.No.17871 of 2018

MR(CO)
CS/09/08/18