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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.10.2018

CORAM :

**THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY**

W.P(MD)No.21459 of 2018
and WMP No.19345 of 2018

Rev.Fr.Peter

... Petitioner

vs.

1. The District Collector,
Madurai District, Madurai.
 2. The Revenue Divisional Officer,
Gandhi Nagar, Madurai South
Madurai.
 3. The Tahsildar,
Madurai North Taluk
Tallakulam, Madurai
 4. Assistant Engineer,
Public Works Department/Water Resource Organisation,
Periyar Main Canal Section,
Mettupatti Sub Division, Tallakulam
Madurai.
- ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus to forbear the respondents 1 to 4 from interfering with the petitioner's possession and enjoyment of the 37 cents and 100 sq.metre of land, part of Survey No.2/13 of Parayathikulam Village, Madurai North Taluk, which is the subject matter of the civil suit in O.S.No.258 of 2016 on the file of the District Munsif Court, Melur and the 22 cents of land in the same survey number pending disposal of the said suit.

For Petitioner : Mr.C.Dhanaseelan

For Respondent : Mr.V.R.Shanmuganathan
Special Government Pleader

**O R D E R****(Order of the Court was made by T.RAJA, J.)**

This writ petition has been filed for a Mandamus to forbear the respondents from interfering with the petitioner's possession and enjoyment of 37 cents and 100 sq. metre in S.No.2/13 of Parayathikulam Village, Madurai North Taluk, which is the subject matter in O.S.No.258 of 2016 on the file of the District Munsif Court, Melur and the 22 cents of land in the same survey number pending disposal of the said suit.

2.Learned counsel for the petitioner submitted that although Form 3 Notice under Sub Rule (1) of Rule 6 of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act 2007 has been issued on 13.01.2016 by the Assistant Engineer, Public Works Department/Water Resources Organisation, Periyar Main Canal Section, they have not taken any action. However, the petitioner has approached the learned District Munsif Court at Melur, by filing a civil suit in O.S.No.258/2016 impleading the revenue authorities and others seeking declaration of title and also permanent injunction against the revenue authorities and the said suit is still pending.

3. Initially, as a matter of fact, the petitioner has moved the learned District Munsif Court seeking decree for declaration of title and consequential injunction and keeping the said suit pending, it is not known why the petitioner should unnecessarily come to this Court leaving the suit at the hands of the learned District Munsif Court, Melur.

Secondly, for the same cause of action and the relief when the petitioner is also awaiting at the hands of the learned District Munsif Court, he cannot maintain any parallel proceedings under Article 226 of the Constitution of India, which is wholly impermissible.

4. If there is any imminent apprehension, the petitioner should go back to the civil Court and leaving that course, he cannot come to this Court. The reason being that once we entertain this writ petition, this will result in non disposal of the pending civil suit, besides any observations in this writ petition will affect the pending civil suit.



5. For these reasons, we are unable to entertain the writ petition. The writ petition fails and contrary thereto the same is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS II)

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/True Copy/

Sub Assistant Registrar(CS III)

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To

1. The District Munsif Court,
Melur.
2. The District Collector,
Madurai District, Madurai.
3. The Revenue Divisional Officer,
Gandhi Nagar, Madurai South
Madurai.
4. The Tahsildar,
Madurai North Taluk
Tallakulam, Madurai
5. Assistant Engineer,
Public Works Department/Water Resource Organisation,
Periyar Main Canal Section,
Mettupatti Sub Division, Tallakulam
Madurai.

1CC TO MR. C. DHANASEELAN, ADVOCATE SR 90651

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