



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 20.03.2018
CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) .No.3868 of 2018
and
W.M.P. (MD) .No.4032 of 2018

S.Stalin Joseph

... Petitioner

Vs.

1.The District Collector of Tuticorin,
Tuticorin District,
Tuticorin.

2.The Revenue Divisional Officer,
Tiruchendur.

3.The Tahsildar,
Taluk Office, Tiruchendur.

4.The Revenue Inspector,
Athur, Tuticorin District.

5.The Sub Registrar of Kayalpattinam,
Kayalpattinam, Tuticorin District.

6.H.A.C.Shahul Hameed

7.M.N.Mohamed Abdul Khadar

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing respondents 1 to 4 herein to remove the encroachment made by the respondents 6 and 7 in Old S.No.807/3 and New S.No.468/1A Part, Thenpagam, Kayalpattinam Village, Tuticorin District and also in pursuance of the petitioner's representation dated 24.03.2017 issued in favour of respondents 1 to 3 herein.

(Prayer amended vide order dated 20.03.2018 made in W.M.P.(MD). No.5018 of 2018)

<https://hcservices.ecourts.gov.in/hcservices/>
For Petitioner
For R1 to R5

: Mr.V.Sitharanjandas
: Mr.D.Muruganantham
Addl. Government Pleader



For R6 & R7

: Mr.S.R.Anbarasu

O R D E R

[Order of the Court was delivered by T.S.SIVAGNANAM, J.]

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Heard Mr.V.Sitharanjandas, learned counsel appearing for the petitioner and Mr.D.Muruganantham, learned Additional Government Pleader appearing for the respondents 1 to 5 and Mr.S.R.Anbarasu, learned counsel appearing for the respondents 6 and 7.

2.The petitioner seeks for a direction to direct the respondents 1 to 4 to remove the encroachment made by the respondents 6 and 7 in Old S.No.807/3 and New S.No.468/1A Part, Thenpagam, Kayalpattinam Village, Tuticorin District and also in pursuance of the petitioner's representation dated 24.03.2017 issued in favour of the respondents 1 to 3.

3.The learned counsel appearing for the respondents 6 and 7 pointed out that for an identical relief, the petitioner has filed a suit in O.S.No.145 of 2017 on the file of the District Munsif Court, Tiruchendur.

4.The learned counsel appearing for the petitioner submits that the petitioner has disclosed the filing of the suit in the writ petition and also filed a copy of the plaint in the typed set of papers. He further contended that the defendants in the suit are only the respondents 6 and 7 and not the official respondents in this writ petition. However, that cannot be a reason to entertain the writ petition for an identical relief. It is always open to the petitioner to implead the official respondents, if they are proper and necessary parties to the suit. This has to be decided by the petitioner/plaintiff and this Court is not here to advise the petitioner.

5.Thus, for the above reason, the writ petition is not maintainable and the same is dismissed. However, the petitioner is at liberty to canvas all issues in the pending suit and the dismissal of the writ petition will not stand in the way of the petitioner in canvassing the case before the Civil Court. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSI)

/True Copy/

Sub Assistant Registrar



To

1.The District Collector of Tuticorin,
Tuticorin District,
Tuticorin.

2.The Revenue Divisional Officer,
Tiruchendur.

3.The Tahsildar,
Taluk Office, Tiruchendur.

4.The Revenue Inspector,
Athur, Tuticorin District.

5.The Sub Registrar of Kayalpattinam,
Kayalpattinam, Tuticorin District.

+1cc to Mr.S.R.Anbarasu, Advocate, SR.No.56579

+1cc to Mr.V.Sitharanjandas, Advocate, SR.No.56400

+1cc to The Special Government Pleader, SR.No.56693

ns

RL/9C/3P/SV/MMS/SAR1/17/4/2018

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and
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