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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

REVIEW APPLICATION [MD].No.43 of 2018
IN

W.P. (MD) .No.17868 of 2018

1.R.Anbazhagan
2.A.Amsavalli
3.N.Rajakumari

: Petitioners/3rd Party

Vs.

1.R.Gajendran

:1st Respondent/Writ Petitioner

2.The District Collector,
Thanjavur District,
Thanjavur.

3.The District Revenue Officer,
Thanjavur District.

4.The Executive Engineer,
Public Works Department,
[Water Resources Department],
Vennar Basin Division,
Thanjavur District.

5.The Revenue Divisional Officer,
Thanjavur District,
Thanjavur.

6.The Tahsildar, Puthallur Taluk,
Thanjavur District.

7.The Block Development Officer,
Thiruvaiyar Taluk,
Thanjavur District.

8.The Assistant Executive Engineer,
Vennar Basin Division,
Thanjavur District.

: Respondents 2 to 8/Respondents

PRAYER: Review Application is filed under Order 47 Rule 1 and
Section 114 of the Code of Civil Procedure, r/w under Article 226 of
the constitution of India, against the order dated 11.08.2018 made
in W.P. (MD) .No.17868 of 2018.

**Prayer in WP(MD)No. 17868/ 2018 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue Writ of Mandamus direct the respondents to remove the encroachment in Putharayanallur Kanmani having extent of 82.10 acres situated in S.No.174A/1, at Putharayanallur Village, Pudhalur Taluk, Thanjavur District, within the time stipulated by this Court on considering the Petitioner's representation dated 25.10.2017.

For petitioner : Mr.AR.L.Sundaresan
Senior Counsel
for Mr.A.Sivasubramanian

For Respondent No.1 : Mr.G.Thalaimutharasu
for Mr.A.S.Mathialagan

For respondents 2 to 8 : Mr.A.K.Baskarapandian
Special Government Pleader

ORDER

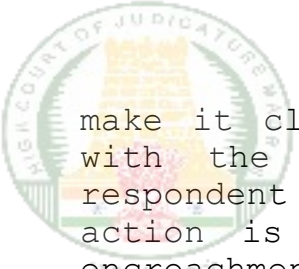
[Order of the Court was made by M.M.SUNDRESH, J.]

Seeking to review the order dated 11.08.2018 made in W.P.(MD). No.17868 of 2018, passed by us, the present Review Application has been filed on the premise that the petitioners herein are the owners of the property as against the finding that they are encroachers.

2. The learned Senior Counsel appearing for the petitioners, by placing reliance upon the sale deed of the dated 15.10.1932, would submit that the petitioners are lawful purchasers of the land in question from their predecessors in title.

3. However, the learned counsel appearing for the first respondent/writ petitioner would submit that it is only an assignment and there is no right of alienation contrary to the condition of grant.

4. We are not inclined to go into the said issue, which has to be decided by the second respondent herein. Therefore, we make it clear that the order dated 11.08.2018 made in W.P.(MD).No.17868 of 2018 will have to be understood by the second respondent that we have not expressed anything on the merits of the case/question of title followed by the consequential action. Accordingly, we direct that it should not be understood by the second respondent that we have given a finding on the alleged encroachment. Accordingly, the Review Application is disposed of by directing the second respondent to pass appropriate orders, after hearing the petitioners herein as well as the first respondent/writ petitioner within a period of eight weeks from the date of receipt of a copy of this order. We



make it clear that the order of the second respondent shall deal with the title and the alleged encroachment. If the second respondent finds that the petitioners have title, then, no further action is required in the matter and on the contrary, if any encroachment is proved, while giving finding that there is no title, an order of eviction should be passed in the very same proceedings. It is also made clear that the second respondent shall go into the violation of the condition of grant. Till such time, status-quo as-on-today shall be maintained.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-I)

To

- 1.The District Collector,
Thanjavur District, Thanjavur.
- 2.The District Revenue Officer,
Thanjavur District.
- 3.The Executive Engineer,
Public Works Department,
[Water Resources Department],
Vennar Basin Division, Thanjavur District.
- 4.The Revenue Divisional Officer,
Thanjavur District, Thanjavur.
- 5.The Tahsildar, Puthallur Taluk, Thanjavur District.
- 6.The Block Development Officer,
Thiruvaiyar Taluk, Thanjavur District.
- 7.The Assistant Executive Engineer,
Vennar Basin Division, Thanjavur District.

+1CC to Mr.A.S.Mathialagan, Advocate, SR.No.91882
+1CC to Mr.A.Sivasubramanian, Advocate, SR.No.91991
+1CC to the Special Government Pleader SR.No. 92231

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