



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) No.623 of 2016

and

C.M.P. (MD) .No.2831 of 2016

1.S.Ramakrishnan

2.R.Karthick

.. Petitioners/Defendants 1 &2

vs.

1.Krishnaveni

.. Respondent No.1/Plaintiff

2.P.Tamilarasi

3.The commissioner,

Bodinaickanur Municipality,

Bodinaickanur,

Theni District.

4.The Tahsildar,

Bodinaickanur Taluk,

Theni District.

5.The Block Development Officer,

Kottakudi Panchayat,

Kottakudi,

Bodinaickanur Taluk,

Theni District.

6.The Ranger,

Forest Range Office,

Jeeva Nagar,

Bodinaickanur,

Theni District.

.. Respondents / Defendants 3 to

7

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to strike off the plaint filed in O.S.No.15 of 2016 on the file of the District Munsif-cum-Judicial Magistrate, Bodinayakanur.

For Petitioners

: Mr.T.Lajapathi Roy

For Respondent No.1

: Mr.Bharathan for  
Mr.T.R.Jeyapalam

For Respondent No.2

: Mr.Muthukannan

For Respondent No.3

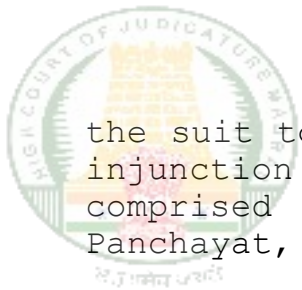
: Mr.M.Karuppasamy Pandian

For Respondent Nos.4 to 6

: Mr.M.Karuppasamy  
Government Advocate

#### ORDER

The defendants 1 and 2 in O.S.No.15 of 2016 on the file of the learned District Munsif-cum-Judicial Magistrate, Bodinayakanur are the revision petitioners herein. The revision petitioners want



the suit to be struck off. The suit is for the reliefs of permanent injunction as well as mandatory injunction. The suit property is comprised in Survey No.232/2 in Kombuthooki village, Kottakudi Panchayat, Bodinaickanur Panchayat Union, Theni District.

2. This Court perused the relevant revenue records. The property in question has been categorised as a cart track. Probably realising this fact that she does not have title over the suit property, the plaintiff sought mandatory injunction for directing the fifth defendant, namely Tahsildar to issue assignment patta in her favour. Such a relief cannot be sought for in a suit. Therefore, the prayer for mandatory injunction in O.S.No.15 of 2016 is liable to be struck off.

3. This Court went through the relevant files. It is seen that the due process as set out in the Tamilnadu Land Encroachment Act, 1905, has not been followed in this case. All that the petitioner seeks is that due process of law should be followed by the Government officials. Therefore, even while partly allowing this Civil Revision Petition and permitting O.S.No.15 of 2016 to be proceeded with, this Court specifically directs the revenue officials as well as the municipality to take action as per the Tamilnadu Land Encroachment Act, 1905, to remove the encroachment in question. In fact, the plaintiff cannot take objection to this direction, because even the plaintiff also wants only due process to be followed. It is also to be observed that Section 14 of the said Act is to be borne in mind, if such an action taken under the Act is questioned.

4. With direction to the authorities to take action as per law, this Civil Revision Petition is partly allowed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/

Assistant Registrar (AD-II)

/True copy/

Sub Assistant Registrar (CS-IV)

To

1. The District Munsif-cum-Judicial Magistrate,  
Bodinayakanur.

2. The Section Officer,

V.R.Section,

Madurai Bench of Madras High Court,

Madurai. (2 COPIES)

+1cc to Mr.T.Lajapathi Roy, Advocate, SR.No.82237

+1cc to Mr.T.R.JEYAPALAM, Advocate, SR.No.82724

+1cc to M/s.Special Government Pleader, SR.No. 82478

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