



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 02.01.2018

CORAM:

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P(MD)No.2001 of 2016

M.Thirumal Alagu .. Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Tahsildar,
Thirupathur Taluk,
Sivagangai District.

3.M.Vidya .. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the first and second respondents to remove the encroachment done by the third respondent under S.No.239/6 and 239/8 at Mallakottai Village, Thirupathur Taluk, Sivagangai District by considering the representation of the petitioner dated 23.11.2015.

For Petitioner	: Mr.B.Saravanan
For Respondents	: Mr.M.Murugan Government Advocate for R.1 and R.2 : Mr.R.Vijayakumar for R.3

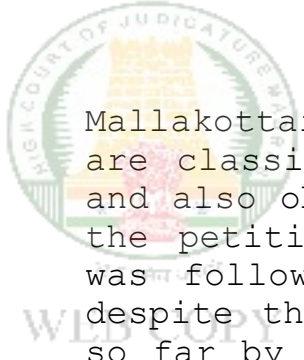
ORDER

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

By consent, the Writ Petition itself is taken up for final disposal.

2. Mr.M.Murugan, learned Government Advocate accepts notice on behalf of the respondents 1 and 2 and Mr.R.Vijayakumar, learned Counsel appears on behalf of the third respondent.

<https://hcservices.ecourts.gov.in/hcservices/> 3. The grievance expressed by the petitioner, from the materials placed, appears to be that the third respondent has encroached upon the lands in Survey Nos.239/6 and 239/8 of



Mallakottai Village, Tirupathur Taluk, Sivagangai District, which are classified as Government Poramboke and put up a construction and also obtained electricity service connection. In this regard, the petitioner submitted a representation dated -/09/2014, which was followed by a reminder representation dated 23.11.2015 and despite the receipt of acknowledgement, no action has been taken so far by the official respondents to remove the encroachment and hence, the petitioner came forward before this Court to file the present Writ Petition.

4. The learned Counsel for the petitioner has drawn the attention of this Court to the revenue records and as per the entry made in the revenue records, the lands in Survey Nos.239/6 and 239/8 are shown as "kalimanai" (vacant land) and since it belongs to the Government, the third respondent cannot exercise any right over the same and therefore, prays for appropriate orders.

5. The learned Government Advocate appearing for the respondents 1 and 2 would submit that one Kalaiselvan had filed W.P.(MD)No.18571 of 2014 for the same relief, wherein the official respondents had filed their counter affidavit stating that the said lands are classified as "Natham lands" and taking note of the same, the writ petition was also dismissed and the petitioner, suppressing the said fact, filed the present writ petition with the very same cause of action.

6. Mr.R.Vijayakumar, learned Counsel appearing for the third respondent has placed reliance on the said order and would submit that this writ petition is nothing but abuse of process of law for the reason that in the writ petition in W.P.(MD)No.18571 of 2014 filed by Kalaiselvan, the official respondents filed their counter affidavit and took a stand that the lands in Survey Nos.239/6 and 239/8 are classified as "Natham lands" and taking note of the same, the Division Bench of this Court has also recorded a finding that there is a dispute over the classification and identity of the property in question and as such, no public interest was involved and dismissed the writ petition. Hence, the present writ petition deserves the very same fate.

7. This Court has considered the rival submissions and perused the materials placed before this Court.

8. As rightly pointed out by the learned Government Advocate appearing for the official respondents 1 and 2 and the learned Counsel appearing for the third respondent, in the earlier round of litigation in W.P.(MD)No.18571 of 2014, the official respondents took a stand that the concerned lands are classified as "Natham lands" and this Court, taking note of the said fact, has also dismissed the writ petition by specifically stating that no public interest was involved in that writ petition.



9. In the considered opinion of this Court, the same reason squarely applies to the present writ petition also. Therefore, the Writ Petition is dismissed. No costs.

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Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Tahsildar,
Thirupathur Taluk,
Sivagangai District.

+1cc to M/S.R.Vijayakumar, Advocate SR.No. 40041
+1cc to Special Government Pleader, SR.No. 40265

W.P (MD) No.2001 of 2016
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