

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.4970 of 2011
and M.P.No.1 of 2011

Chinnasamy

... Petitioner

Vs

1.The District Collector
Dharmapuri District
Dharmapuri

2.The Superintendent of Police
Dharmapuri District
Dharmapuri

3.The Tahsildar
Pennagaram Taluk
Dharmapuri District

4.S.Rajkumar

5.N.Murugan

6.The Executive Officer
A/M.Sendarayasamy Thiru Kovil
Vattuvanahalli village
Pennagaram Taluk
Dharmapuri District

R6 Impleaded as per order dated 18.07.2011
in M.P.No.2 of 2011

... Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a writ of Mandamus forbearing the respondents 3 to 5 from interfering with the Petitioner's right to properties situated in S.No.181, Vattuvanahalli, Pavalanthur, Pennagaram Taluk, Dharmapuri District and direct the respondents 1 and 2 to initiate action against the respondents 3 and 5 and also grant monetary compensation for the damage caused to the agricultural crops by considering the petitioner's representation dated 07.02.2011 and legal notices dated 14.08.2010 and 17.01.2011.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.M.Karthikeyan, Addl Govt.Pleader
for R1 to R3.

No appearance for R4 to R6.

ORDER

This Writ Petition is filed seeking to issue a writ of Mandamus to forbear the respondents 3 to 5 from interfering with the Petitioner's right to properties situated in S.No.181, Vattuvanahalli, Pavalanthur, Pennagaram Taluk, Dharmapuri District and to direct the respondents 1 and 2 to initiate action against the respondents 3 and 5 and also grant monetary compensation for the damage caused to the agricultural crops by considering the petitioner's representation dated 07.02.2011 and legal notices dated 14.08.2010 and 17.01.2011.

2. It is averred in the Writ Petition that the Petitioner occupied an extent of 8.37 cents in S.No.181, Pavalanthur Village, Pennagaram Taluk and was continued to be in possession and enjoyment of the agricultural land since the life time of his ancestors for the past 100 years. The aforesaid land was owned by Sendarayar Perumal Samy Thirukovil. According to the Petitioner, except the temple authorities, no other person has any legal right to disturb the peaceful possession and enjoyment of the land. The Petitioner and his brother filed O.S.No.8 of 2010 before the District Munsif cum Judicial Magistrate, Pennagaram, against five persons for the relief of permanent injunction restraining the defendants therein from interfering with his peaceful possession and enjoyment of the properties in the guise of forming a road or causing damage to the properties. The said suit was decreed on 02.08.2010. According to the Writ Petitioner, the 4th and 5th respondents had entered into the property and forcibly took possession and damaged agricultural crops under the guise of laying the Road in S.F.No.181. Therefore, the present writ petition has been filed with the above said prayer.

3. The 3rd respondent/Thasildar, Pennagaram, filed detailed Counter affidavit. The learned Additional Government Pleader reiterated the submissions made in the counter affidavit stating that the Writ Petitioner was in possession of S.F.No.181 which commences from Reserved Forest area and passed through survey fields of 158, 159, 175, 176, 174, 172, 183, 181, 180 and 845. The Writ Petitioner had destroyed the Plan marked for the existing pathway available in S.F.No.181 of temple land for his personal gains. It is further stated in the counter affidavit

that S.F.No.181 belongs to the 6th respondent/Temple Authority. Already there was a pathway in the said survey Number. The Panchayat sanctioned approval from the Commissioner, Panchayat Union, Pennagaram, so as to form a mud road. Therefore, the 5th respondent has laid the mud road in S.F.No.181 in the interest of Public and the same is not for any personal use. Further, the learned Additional Government Pleader would submit that the Petitioner has obtained a decree against individual persons under the capacity of a Private person and not against anybody who holds office and further the Panchayat or the temple was not added as a party in the decree proceedings. Therefore, the decree obtained by the Petitioner will not bind on the respondents.

4. Heard both sides and perused the records carefully.

5. It is pointed out by the learned Additional Government Pleader that the Writ Petitioner is the occupant under the 6th respondent/Temple. The 6th respondent Temple being the owner of the said property is already a party in the present writ Petition. However, the 6th respondent has not filed any counter and not raised any objection for laying road in S.F.No.181, Pavalanthur, Pennagaram Taluk, Dharmapuri District. Therefore, the Petitioner's prayer to forbear respondents 3 to 5 from interfering with Petitioner's right to the said property, cannot be entertained by this court.

6. As rightly contended by the learned Additional Government Pleader, the President, Village Panchayat, was not a party in the present Writ Petition and the Village Panchayat has laid the mud road after getting approval from the Commissioner, Panchayat Union, Pennagaram, and the said road leads from Elumalmanthai Village to Uppalapuram Village for public purpose and therefore, the Petitioner is not having any right to seek the aforesaid prayer.

7. In the light of the above discussion, the Writ Petition is devoid of merits and accordingly, the same is dismissed. In the event of any damages to the properties of the Petitioner, it is for him to seek his remedy before the appropriate authority, in accordance with law. No costs. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

nvsri

To

1.The District Collector
Dharmapuri District
Dharmapuri

2.The Superintendent of Police
Dharmapuri District
Dharmapuri

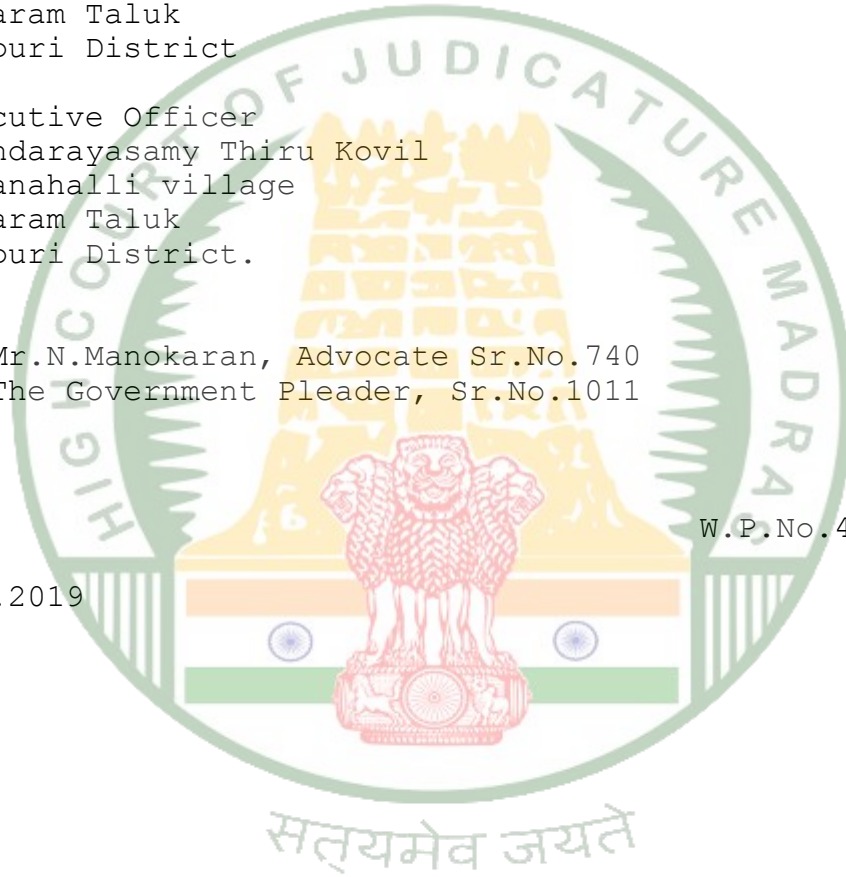
3.The Tahsildar
Pennagaram Taluk
Dharmapuri District

4.The Executive Officer
A/M.Sendarayasamy Thiru Kovil
Vattuvanahalli village
Pennagaram Taluk
Dharmapuri District.

+1 cc to Mr.N.Manokaran, Advocate Sr.No.740
+1 cc to The Government Pleader, Sr.No.1011

RR(CO)
CSL/18.02.2019

W.P.No.4970 of 2011



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