

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2019

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE M.DURAIWAMY

W.P. No.6576 of 2019

K.Jaganathan

.. Petitioner

V.

1 The District Collector,
Erode District,
Erode.

2 The Revenue Tahsildar,
Erode Taluk,
Erode District

3 Sree Janani Matriculation and
Higher Secondary School,
Rep. by its Correspondent
R.S.No. 116/ 1B1,
Ellapalayam Village,
Villarasampatti - Periya Semur Bye Pass Road
Erode West Sub Taluk,
Erode Taluk and District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue of Writ of Certiorarified Mandamus, to call for the entire records of the 2nd respondent herein in its proceedings in Na.Ka.No. 6303/2018/A4, dated 12.10.2018 and quash the same as illegal and arbitrary and further direct respondents 1 and 2 herein to remove the encroachments made by the 3rd respondent on the entire LBP Channel comprised in R.S.No. 118 of Ellapalayam Village, Erode Taluk and Erode District and restore the same to its original position of a LBP channel.

For Petitioner : Mr.V.P,sengottuvel

For Respondents : Mr.S.Kamalesh Kannan
Govt.Advocate – for R1 & R2
Mr.P.Sesabalan Raja – for R3

ORDER

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

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The petitioner has filed the above Writ Petition to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in its proceedings dated 12.10.2018, to quash the same

and further direct respondents 1 and 2 to remove the encroachment made by the 3rd respondent on the entire LBP Channel comprised in R.S.No. 118 of Ellapalayam Village, Erode Taluk and Erode District and restore the same to its original position.

2. It is the contention of the petitioner that the 3rd respondent had encroached the water channel and therefore, the encroachment made by the 3rd respondent should be removed. Further, the petitioner contended that when the 3rd respondent had encroached the water body, the impugned order dated 12.10.2018 passed by the 2nd respondent finding that the 3rd respondent has not encroached any land in Survey Nos. 116 and 118 is liable to be set aside.

3. However, the 2nd respondent, Tahsildar, Erode Taluk, filed a counter, wherein it has been specifically stated that the 3rd respondent has not encroached any land in S.F.Nos.116 and 118.

4. When the 2nd respondent has specifically stated that the 3rd respondent has not made any encroachment in S.F. Nos.116 and 118 as

alleged by the petitioner, we find no reason to disbelieve the counter filed by the 2nd respondent. The counter filed by the 2nd respondent is recorded.

5. In these circumstances, we find no error or irregularity in the order passed by the 2nd respondent. Accordingly, the Writ Petition is dismissed. No costs.

(V.K.T., C.J.) (M.D., J.)
22.08.2019

Index : Yes/No

Speaking Order/Non Speaking Order

Rj

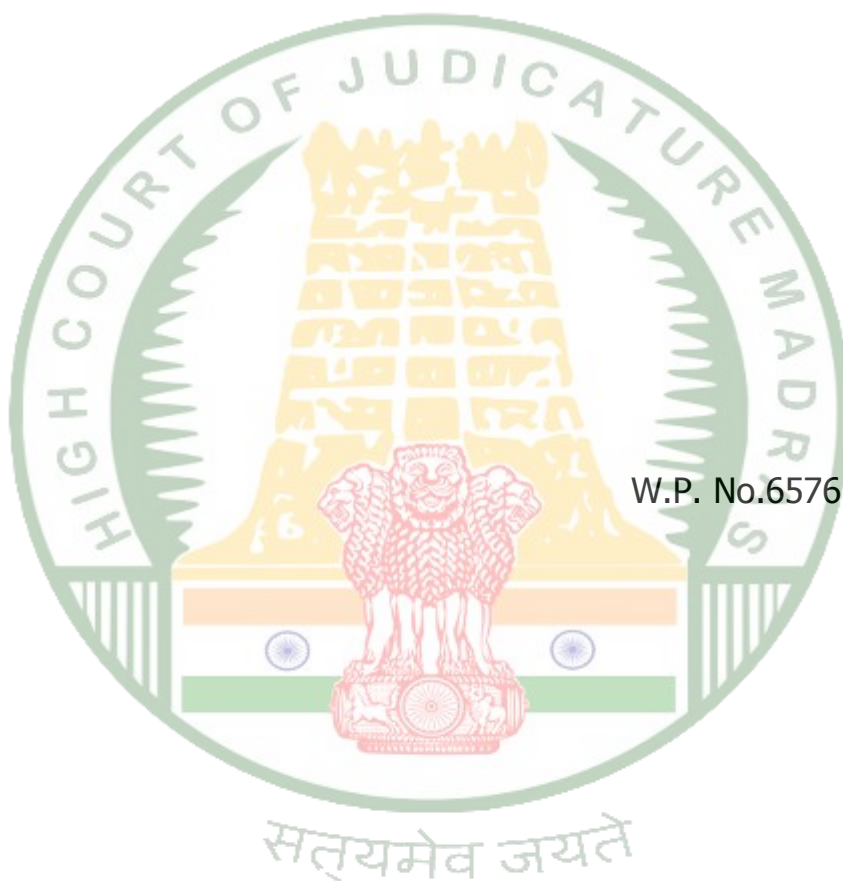
To

- 1 The District Collector,
Erode District,
Erode.
- 2 The Revenue Tahsildar,
Erode Taluk,
Erode District

W.P. No.6576 of 2019

THE HON'BLE CHIEF JUSTICE
AND
M. DURAISWAMY,J.

Rj



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