



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) No.5105 of 2019

AND

W.M.P. (MD) No.4068 of 2019

Vasantha

... Petitioner

Vs

1.The District Collector,
District Collector's Office,
Trichy-1,
Trichy District.

2.The Tahsildar,
Taluk Office,
Lalgudi,
Lalgudi Taluk,
Trichy District.

3.The District Revenue Officer,
D.R.O.Office,
Collector's Office campus,
Trichy-1,
Trichy District.

4.P.Lakshmi

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing 1 to 3 respondents to restore possession of petitioner's house compound wall which is situated at Trichy District, Ariyalur Registration District, Lalgudi Taluk, Poovalur East Village (Thengal), ayan nanjai S.F.No.102/2 measuring 10 cents, within the stipulated period as may be fixed by this Court.

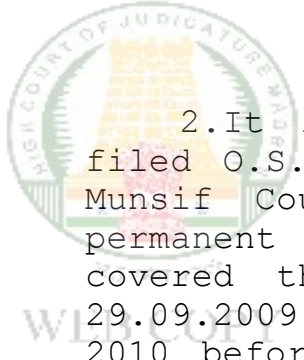
For Petitioner : Mr.R.Sundar

For R1 to R3 : Mr.M.Rajarajan

Government Advocate

For R4 : Mr.P.Arun Jaytram

ORDER



2.It is seen that the writ petitioner's husband Annamalai filed O.S.No.334 of 1996 on the file of the Principal District Munsif Court, Lalgudi seeking the relief of declaration and permanent injunction in respect of the suit schedule property covered therein. The suit was dismissed by judgment dated 29.09.2009. Aggrieved by the same, he filed A.S.Nos.40 and 41 of 2010 before the learned I Additional Subordinate Judge, Trichy. The first appeals were also dismissed. In the said suit, the petitioner herein figured as one of the defendants.

3.The case of the fourth respondent herein is that after losing in the civil proceedings, one A.Sekar was set up to file W.P.(MD)No.3453 of 2012 and in the said writ petition, the following relief was sought:

"Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 1st respondent to take necessary action to remove the curve in Tenkal Poovalur East Village to Lalgudi Main Road, situated at Revenue Survey No.185, Tenkal Poovalur East Village, Lalgudi, Trichy based on the petitioner's representation dated 21.11.2011, according to law, within a stipulated time limit."

By an order dated 21.03.2012, the Hon'ble Division Bench directed the District Collector to consider and dispose of his representation. The grievance of Lakshmi is that in the guise of disposing of the representation, her hut was demolished and the petitioner herein put up a compound instead. If that be so, according to the writ petitioner herein, the said Lakshmi filed W.P.(MD)No.13254 of 2012 and sought restoration of her possession and also grant a compensation. The said writ petition was disposed of on 10.11.2017 in the following terms:

"Considering the submissions made on either side, this Court without going into the merits of the petitioner's claim, directs the first respondent to look into the issue in question and pass appropriate orders on its own merit and in accordance with law, after affording due opportunity of hearing to the petitioner as well as any of the interested parties including the respondents 6 to 8, within a period of six weeks from the date of receipt of a copy of this order."

4.The petitioner's grievance is that in the guise of disposing of the said Lakshmi's representation, the compound wall was demolished by the Tahsildar, Lalgudi. Therefore, the petitioner herein seeks restoration of the compound wall that, according to her, was illegally demolished by the second respondent. The petitioner herein has filed not only a counter but also a typed set of papers. A bare perusal of the materials on record indicate that highly disputed questions of fact have been through

up for consideration.

5. I am of the view that the writ Court is not competent to go into these disputed questions of fact. Therefore, the petitioner is at liberty to work out his rights before the jurisdictional Civil Court in accordance with law. It is made clear that this Court has not gone into the merits of the matter. The petitioner is at liberty to move the Civil Court.

6. With this liberty, this writ petition is closed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (ADI)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The District Collector,
District Collector's Office,
Trichy-1,
Trichy District.

2. The Tahsildar,
Taluk Office,
Lalgudi,
Lalgudi Taluk,
Trichy District.

3. The District Revenue Officer,
D.R.O. Office,
Collector's Office campus,
Trichy-1,
Trichy District.

+1 CC to M/s. R. SUNDAR, Advocate (SR-61472[F] dated 22/04/2019)

+1 CC to M/s. SPL GP (SR-61633[F] dated 22/04/2019)

PNN

W. P. (MD) No. 5105 of 2019

AND

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16.04.2019