



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2019

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

W.P. (MD) .No.6153 of 2019
and
W.M.P. (MD) .No.4911 of 2019

Kather Mohideen

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Municipal Commissioner,
Puliyankudi Municipality,
Tirunelveli District.

... Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the second respondent from proceeding with the proceedings in Na.Ka.No.444/2004/F1, dated 08.02.2019 issued by the second respondent and consequently direct the respondents to resurvey the Syed Ali Fathima Ninaivu Dharka and Matharsha situates in 7th Street, Jinnah Nagar, Puliyankudi, Tirunelveli.

For Petitioner

: Mr.K.Navaneetharaja

For R1

: Mr.P.Kannithevan

Additional Government Pleader

For R2

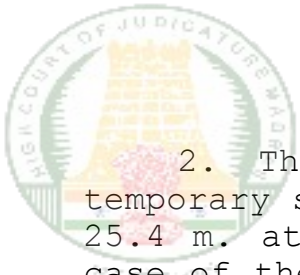
: Mr.M.Rajarajan

Government Advocate

O R D E R

(Order of the Court was made by **K.KALYANASUNDARAM, J.**)

This writ petition has been filed for issuance of writ of Mandamus forbearing the second respondent from proceeding with the proceedings in Na.Ka.No.444/2004/F1, dated 08.02.2019 and consequently, direct the respondents to resurvey the land in dispute.



2. The order impugned in the writ petition shows that a temporary shed has been constructed measuring an extent of 4.40 m. x 25.4 m. at the junction of Jinna Nagar and at Karpaha Street. The case of the petitioner is that there is no encroachment made by the petitioner and the notice was issued in the name of one Meeran, but the respondents have attempted to evict the petitioner from the place.

3. Mr.K.Navaneetharaja, learned counsel appearing for the petitioner would state that the petitioner would be satisfied, if a direction is issued to the concerned authorities to conduct a resurvey and after resurvey, if it is found that there is an encroachment, the petitioner is ready to vacate the place.

4. Mr.P.Kannithevan, learned Additional Government Pleader appearing for the first respondent would state that the Tahsildar is not a party and a direction can be issued to the Thasildar to conduct a resurvey in the place in dispute.

5. Mr.M.Rajarajan, learned Standing counsel appearing for the second respondent would state that in the resurvey, if an encroachment is found out, the second respondent is ready to remove the same.

6. In the light of the limited scope of the prayer sought for in the writ petition and the submissions of the learned counsel on either side, this Court, without going into the merits of the case, directs the Thasildar, Puliangudi, Tirunelveli District, to conduct a resurvey in 7th street, Jinna Nagar, Puliyangudi in the presence of the petitioner and other necessary parties and give a report to the second respondent, within a period of eight weeks from the date of receipt of a copy of this order. If the report show any encroachment, the petitioner himself shall vacate the place within a period of four weeks from there, failing which the second respondent is directed to remove the encroachment made by the petitioner forthwith.

7. With the above direction, the Writ Petition is disposed of. Till such time, the order impugned in the writ petition shall be kept in abeyance. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (P AND A)

// True Copy //

Sub Assistant Registrar(CS)



akv

To

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Municipal Commissioner,
Puliyankudi Municipality,
Tirunelveli District.

KK

15/04/2019

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