



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2019

CORAM:

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P(MD)NO.6989 OF 2019

A.S.Jawahar

: Petitioner

.vs.

1.The District Collector,
Kanyakumari District.

2.The Superintendent of Police,
Kanyakumari District.

3.The Tahsildar,
Agastheeswaram Taluk,
Kanyakumari District.

4.D.Ayyakannu

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 1 to 3 to remove the compound wall, measuring an extent of about 2.25 cents in S.Nos.696/4 and 696/5 at Neendakarai 'B' Village, Agastheeswaram Taluk, Kanyakumari District vide proceedings in NK.No.C4/14175/2011, dated 23.6.2011 and consequential proceedings in NK.No.C4/11698/13(2), dated 12.8.2013.

For Petitioner : Mr.D.Saravanan

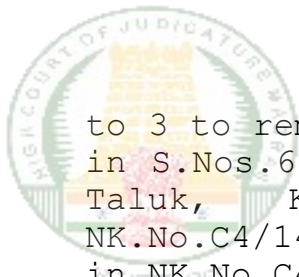
For Respondents : Mr.VR.Shanmuganathan
1 to 3 Govt.Pleader

O R D E R

[Order of the Court was made by **K.KALYANASUNDARAM., J.**]

Heard Mr.D.Saravanan, learned counsel appearing for the Petitioner and Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 to 3 and perused the materials available on record.

2.The Petitioner has come forward with this Writ Petition seeking issuance of a Writ of Mandamus to direct the respondents 1



to 3 to remove the compound wall, measuring an extent of 2.25 cents in S.Nos.696/4 and 696/5 at Neendakarai 'B' Village, Agastheeswaram Taluk, Kanyakumari District vide proceedings in NK.No.C4/14175/2011, dated 23.6.2011 and consequential proceedings in NK.No.C4/11698/13(2), dated 12.8.2013.

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3. According to the learned counsel for the Petitioner, the fourth respondent who is working as Head Constable in Police Department has encroached upon the patta land of the Petitioner and had constructed a compound wall. It is further stated that the Tahsildar after conducting a survey, has given a report to the Superintendent of Police, Kanyakumari District stating that the fourth respondent has encroached upon the property of the Petitioner, but there is no response.

4. He further adds that the Civil Suit filed by the fourth respondent before the I Additional District Munsif Court, Kanyakumari in O.S.No.181 of 2013 was also dismissed on 20.10.2014. But so far, no action has been taken to remove the encroachment. Hence the Petitioner has come forward with the present Writ Petition for the relief stated supra.

5. Mr. VR. Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 to 3 would state that it is a case of private dispute between the Petitioner and fourth respondent. Hence the officials/respondents have no right or authority to remove the encroachment made by the fourth respondent. It is further stated that the second respondent is ready to consider the representations of the Petitioner, dated 11.09.2018 and 10.10.2018.

6. In the case on hand, it is not in dispute that the grievance of the Petitioner is that the fourth respondent has encroached upon the patta land of the Petitioner. Since it is a private dispute between the Petitioner and fourth respondent, we are of the considered opinion that the Writ Petition cannot be entertained. However, the Superintendent of Police, Kanyakumari District/the second respondent herein is directed to consider the representations of the Petitioner, dated 11.09.2018 and 10.10.2018 and take appropriate action in accordance with law, after providing due opportunity to all the necessary parties concerned.

7. With the above direction, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CO)

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To

1. The District Collector,
Kanyakumari District.

2. The Superintendent of Police,
Kanyakumari District.

3. The Tahsildar,
Agastheeswaram Taluk,
Kanyakumari District.

+1 CC to M/s.D.SARAVANAN, Advocate in SR-56648

+1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No.56921

W.P (MD) No. 6989 of 2019
26.03.2019

vsn

PK/23.04.2019 : 3P/6C