



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.04.2019**

CORAM:

THE HONOURABLE **MR.JUSTICE K.KALYANASUNDARAM**

and

THE HONOURABLE **MRS.JUSTICE T.KRISHNAVALLI**

W.P. (MD) No.8325 of 2019

Salomai

...Petitioner

/Vs./

1.The District Collector,
Sivagangai District, Sivagangai.

2.The Tahsildar,
Sivagangai Taluk, Sivagangai District.

3.Sakkarai

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 and 2 to remove the encroachment made by the third respondent situated at 'Kallarai Pallam', Muthupatti village, Sivagangai Taluk & District bearing in Survey No.17/11, 17/12 based on the petitioner's representation dated 24.12.2018 and 18.02.2019.

For Petitioner : Mr.PR. Boomee Rajan
For R-1 & R-2 : Mr.Aayiram K.Selvakumar
Additional Government Pleader

ORDER

This writ petition has been filed for issuance of writ of Mandamus directing the respondents 1 and 2 to remove the encroachment made by the third respondent in Survey Nos.17/11 and 17/12 situated at 'Kallarai Pallam', Muthupatti village, Sivagangai Taluk & District bearing in Survey No.17/11, 17/12 based on the petitioner's representation dated 24.12.2018 and 18.02.2019.

2.The petitioner would state that he filed a suit in O.S.No.31 of 2012 before the District Munsif Court, Sivagangai against the third respondent for permanent injunction and the suit was decreed on 01.07.2013 and the appeal preferred by the third respondent in A.S.No.104 of 2013 was dismissed on 10.12.2015. Despite the same, the encroachment made by the third respondent was not removed by the respondents 1 and 2.

3.Mr.Aayiram K.Selvakumar, learned Additional Government Pleader would state that the property in Survey Nos.17/11 and 17/12 belongs to Chennai Boomithan Board and it has been classified as 'Kuttai and Kallarai Pallam in the Revenue Records.



4.Despite service of notice to the third respondent, none appears for him.

5.A perusal of the records would reveal that the suit was filed on the basis that the land in S.F.No.17/12 has been utilized by the RC Christians as Kallaraipallam. The private respondents filed a written statement stating that the Boomithan Board had assigned the first item of the property in favour of the fifth respondent, which was subsequently developed by him and he is cultivating the same.

6.Hence, the proper forum of the petitioner is to approach the Civil Court for further remedy and the present writ petition is not maintainable and accordingly, the same is dismissed. No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The District Collector,
Sivagangai District, Sivagangai.

2.The Tahsildar,
Sivagangai Taluk, Sivagangai District.

+1cc to Mr.PR.BOOMEE RAJAN, Advocate, SR.No.62238

+1cc to M/s.Special Government Pleader,SR.No. 62713

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23.04.2019

RJ2

KK/SAR/09.05.2019/ 2P- 5C

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