



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.09.2019

CORAM:

**THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE Mrs. JUSTICE R.THARANI**

W.P. (MD)No.11133 of 2019

Duraipandi

... Petitioner

Vs.

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The Revenue Divisional Officer,
Sivakasi,
Virudhunagar District.
- 3.The Block Development Officer,
Srivilliputhur Panchayat Union,
Virudhunagar District.
- 4.The Tahsildar,
Srivilliputhur,
Virudhunagar District.

5.Ramaraj

... Respondents

PRAYER: The petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 4 to remove the encroachment made by the 5th respondent in Survey No.1660/5, Mayathevanpatti Village, Mallipudhur Village Panchayat, Sriviliputhur Taluk, Virudhunagar District within the stipulated period.

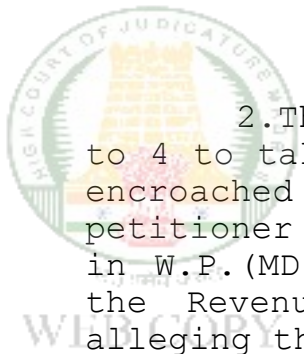
For Petitioner : Mr.M.Jothibas

For Respondents : Mr.S.Angappan, G.A.for R1 to 4
Ms.S.Mahalakshmi for R5

ORDER

(Order of the Court was made by T.S.SIVAGNANAM,J.)

Heard Mr.M.Jothibas, learned counsel for the petitioner, Mr.S.Angappan, learned Government Advocate appearing for the respondents 1 to 4 and Ms.S.Mahalakshmi, learned counsel for the fifth respondent.



2.The petitioner seeks for a direction upon the respondents 1 to 4 to take action against the 5th respondent, alleging that he has encroached the Government land. This is not the first time the petitioner is before this Court. Earlier a Writ petition was filed in W.P.(MD)No.4490 of 2018, whereby, he sought for a direction to the Revenue Divisional Officer to consider his representation, alleging that the 5th respondent is an encroacher. The Writ petition was disposed and subsequently, action appears to have been taken and an order was passed stating that there is no encroachment. Against the same, the petitioner has preferred an appeal before the District Revenue Officer, Virudhunagar and the said appeal petition is pending.

3.In the mean time, the 5th respondent has approached this Court and filed W.P.(MD)No.3032 of 2019 stating the petitioner is an encroacher. The Writ petition was disposed of by directing the Tahsildar concerned to take follow up action and then, notices were issued. On receipt of the show cause notice, the petitioner has given reply on 01.04.2019. Now the the petitioner has come forward with this Writ petition, stating that the 5th respondent is an encroacher.

4.Firstly, a person, who pleads equity must had act in equity. The petitioner has shown to be an encroacher and he has to exonerate himself from the proceedings and the show cause is still pending adjudication. Further more, the grounds, which have been canvassed by the petitioner are in fact the grounds, which has been raised before the District Revenue Officer by the petitioner in an appeal petition filed by him, challenging the order of the Tahsildar, dated 03.12.2018.

5.Therefore, we do not wish to issue any direction in this Writ petition at this juncture. Accordingly, this Writ petition is dismissed. However, this will not prejudice the petitioner from canvassing all points in the appeal petition pending before the Revenue Divisional Officer. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

To

1.The District Collector,
Virudhunagar District,
Virudhunagar.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Revenue Divisional Officer,
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Virudhunagar District.

3.The Block Development Officer,
Srivilliputhur Panchayat Union,
Virudhunagar District.

4.The Tahsildar,
Srivilliputhur,
Virudhunagar District.

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-85512[F] dated 06/09/2019

+1 CC to M/s.SPL GP (SR-85635[F] dated 06/09/2019

W.P. (MD) No.11133 of 2019
05.09.2019

NBJ

MS/23.09.2019/3P.7C