



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.(MD) No.19129 of 2019

and

W.M.P.(MD) No.15483 of 2019

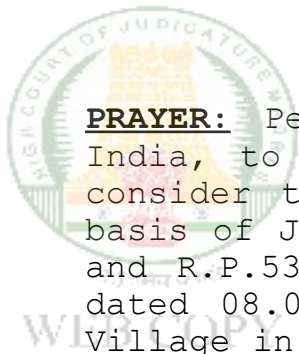
M.Jerthruthammal

... Petitioner

-vs-

- 1.The District Collector,
Kanyakumari District,
Nagercoil.
- 2.The District Revenue Officer,
Collectorate,
Nagercoil,
Kanyakumari District.
- 3.The Executive Engineer,
Water Resource Authority P.W.D.,
Pattanamkal Section,
Chidambaram Nagar,
Nagercoil,
Kanyakumari District.
- 4.The Assistant Engineer,
Water Resource Authority, P.W.D.,
Pattanamkal Section,
Karungal,
Kanyakumari District.
- 5.The Revenue Divisional Officer,
Padmanabhapuram,
Thuckulay,
Kanyakumari District.
- 6.The Tahsildhar,
Kiliyoor Taluk,
Tholayavattham Post,
Kanyakumari District.

... Respondents



PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents to consider the Representation of petitioner dated 22.08.2019 on the basis of Judgment and decree in O.S.No.226 of 2003 dated 27.01.2006 and R.P.53/VIC/77 proceeding of the Director of Settlement office dated 08.03.1978 in property R.SY.No.334/13 and 6 in Keezhkulam Village in Vilavancode Taluk, Kanyakumari District before initiating the proceeding under Tamil Nadu Land Encroachment Act, 1905 against the petitioner.

For Petitioner : Mr.V.M.Balamohan Thambi

For Respondents : Mr.A.Muthukaruppan
Additional Government Pleader

O R D E R

[Order of the Court was made by T.S.SIVAGNANAM, J.]

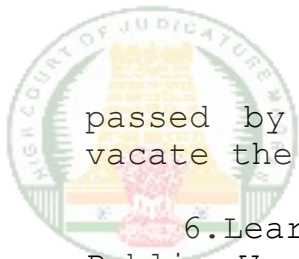
Heard Mr.V.Balamohan Thampi, learned counsel appearing for the petitioner and Mr.A.Muthukaruppan, learned Additional Government Pleader appearing on behalf of the respondents.

2.With the consent of either side, the Writ Petition itself is taken up for final disposal.

3.The grievance of the petitioner is that the Public Works Department officials attempted to trespass into her property comprised in Re Survey No.334/13 and 334/6 of Keezhkulam Village, Vilavancode Taluk, Kanyakumari District, measure the property and also cut down the trees planted in the said property.

4.The petitioner's case rests upon a decree obtained by her in O.S.No.226 of 2003, dated 27.01.2006, on the file of the Additional District Munsif Court, Padmanapuram. The petitioner as plaintiff has filed the suit for declaration of her title and for permanent injunction in respect of Plaint 'B' Schedule Property, as could be seen from the decree, the land comprised in Re Survey No.334/6 and 334/13, old Survey No.1880-B, Keezhkulam Village, Vilavancode Taluk, Munchirai Sub-District, Kanyakumari District, measuring about 2 ½ cents. Plaint 'A' Schedule property is also comprised in Re.S.No.334/6 and 334/13, measuring 93 cents and as per lay (Re-Survey) 38.5 Ares.

5.Admittedly, Plaint 'A' Schedule Property is a water body and the petitioner cannot claim right over the same and the learned counsel for the petitioner on instructions would submit that the petitioner's claim is only in respect of Plaint 'B' Schedule measuring 2½ cents. It is submitted that in violation of the decree



passed by the Civil Court, the PWD officials are attempting to vacate the petitioner from Plaint 'A' Schedule property.

6.Learned Additional Government Pleader pointed out that the Public Works Department is not a defendant in the suit, but, the District Collector, Kanyakumari District and the Executive Officer of Keezhkulam Town Panchayat alone are defendants to the suit. Further, the claim of the petitioner is only to the extent of 2½ cents and the vast extent of land is water body, vested with the Public Works Department.

7.Though the Public Works Department is not a party to the suit, unfortunately, the head of the Revenue Administration viz., the District Collector is a party to the suit. Therefore, the respondents cannot ignore the decree. However, it is to be seen whether the petitioner is in possession of the land, which is subject matter of the suit. Further, patta Nos.7592 and 6519 have been issued in favour of the petitioner. The above said facts are stated by the petitioner in the representation dated 22.08.2019. Since the representation has not been considered and fearing action by the authorities, the petitioner has rushed to the Court.

8.Normally, this Court would not have entertained the Writ Petition because sufficient time has not been granted to the authorities to act upon the representation, which is dated 22.08.2019. However, considering the facts and circumstances of the case, we direct the respondents 4 to 6 to issue notice to the petitioner for conducting Survey of the area and after notice, the respondents 4 to 6 shall clearly demarcate the Government property and proceed further in accordance with law. We further, direct the petitioner to extend full co-operation during the course of Survey. The above direction shall be carried out within two weeks from the date of receipt of a copy of this order.

9.This Writ Petition is disposed of with the above direction. Consequently, connected Writ Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The District Collector,
Kanyakumari District,

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



- 2.The District Revenue Officer,
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- 3.The Executive Engineer,
Water Resource Authority P.W.D.,
Pattanamkal Section,
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- 6.The Tahsildhar,
Kiliyoor Taluk,
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+1 CC to M/s.V.M.BALAMOCHAN THAMBI, Advocate SR-84923.
+1 CC to SPL GP SR-85009.

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