



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 20.08.2019

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 22790 of 2015 &
M.P. (MD) Nos. 1 & 2 of 2015

V. Thedivantha Selvam

... Petitioner

Vs.

1. The Superintendent of Police,
Madurai District,
Madurai.
2. The Deputy Superintendent of Police,
Melur, Madurai District.
3. The Inspector of Police,
Melavalavu Police Station,
Melavalavu,
Melur Taluk,
Madurai District.
4. The Tahsildar,
Melur Taluk Office,
Melur Post & Taluk,
Madurai District.
5. The Head Surveyor,
Melur Taluk Office,
Melur Post & Taluk,
Madurai District.

6. P. Vellaichamy

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing respondents 1 to 5 from interfering the peaceful possession and enjoyment of the petitioner's property situated in S. No. 378/1, 378/2A and 378/2B in Kidaripatti Village, Melur Taluk, Madurai District in the guise of survey and demarcation and consequently direct respondents 1 to 5 to take appropriate action against the sixth respondent for filing false affidavit before this Court.



For Petitioner : Mr.M.Saravanakumar
For R-1 to R-5 : Mr.A.Robinson,
Government Advocate(Crl Side).

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ORDER

The prayer in this Writ petition on the face of it cannot be granted. The petitioner can only file a civil suit seeking the relief of injunction, now sought for in the Writ petition.

2. When the Court expressed the said view, the learned counsel appearing for the Writ petitioner drew my attention to the various orders obtained by the sixth respondent behind his back before this Court. It is seen that the sixth respondent has filed as many as four Writ petitions before this Court. Though in three Writ petitions the order obtained by him was only for disposal of his representations, in W.P.(MD)No.1429 of 2011 vide order dated 10.01.2014, he obtained a direction for issuance of Joint Patta in his name. The petitioner's counsel contended that in the face of the order dated 10.01.2014 made in W.P.(MD)No.1429 of 2011, he will not be in a position to file a civil suit.

3. I find the said contention to be having a considerable force. But then, filing another Writ petition is not a remedy. The petitioner ought to have filed review of the order dated 10.01.2014 or filed a third party appeal, after getting leave from the Hon'ble Division Bench. Likewise for taking action against the sixth respondent for having played fraud with the process of this Court, an appropriate application will have to be taken out and certainly the Writ petition under Article 226 of the Constitution of India will not be maintainable.

4. Therefore, leaving open the rights of the Writ petitioner to vindicate his rights in the manner known to law, this Writ petition is closed. I should however add that the time spent for prosecuting the Writ petition will be excluded for the purpose of limitation. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

pmu



To

1. The Superintendent of Police,
Madurai District, Madurai.
2. The Deputy Superintendent of Police,
Melur, Madurai District.
3. The Inspector of Police,
Melavalavu Police Station,
Melavalavu, Melur Taluk,
Madurai District.
4. The Tahsildar,
Melur Taluk Office, Melur Post & Taluk,
Madurai District.
5. The Head Surveyor,
Melur Taluk Office, Melur Post & Taluk,
Madurai District.

+1 CC to M/s.M.SARAVANAKUMAR, Advocate (SR-82531[F] dated 20/08/2019)

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20.08.2019

VR (CO)
TR (11.12.2019) 3P 7C