



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.(MD) Nos.25414 of 2018 and 3632 of 2019

W.M.P.(MD) No.2844 of 2019 in W.P.(MD) No.3632 of 2019

M.Masanam ... Petitioner in both the Writ Petitions

-VS-

The Thasildar,
Ilaiyankudi Taluk Office,
Ilaiyankudi,
Sivagangai District. ... 1st Respondent in W.P.(MD) No.25414/2018
2nd Respondent in W.P.(MD) No.3632/2019

The Inspector of Police,
Ilayangudi Police Station,
Ilayangudi,
Sivagangai District. ... 2nd Respondent in W.P.(MD) No.25414/2018

The Assistant Director and Personal Assistant to Collector,
District Land Survey Office,
Sivagangai. ... 1st Respondent in W.P.(MD) No.3632/2019

Jayaraman ... 3rd Respondent in both the Writ Petitions

PRAYER in W.P.(MD) No.25414 of 2018: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 2nd Respondent to give a Police Protection for eviction of encroachment in the Odai made by the 3rd Respondent which is situated in Sivagangai District, Ilaiyankudi taluk, Kachathanallur Village in S.F.No.122/5A, based on petitioner's representation dated 17.07.2018 and 29.11.2018.

PRAYER in W.P.(MD) No.3632 of 2019: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Impugned Order passed by the 1st Respondent in his Proceedings in Na.Ka.A1/2258/2018, dated 02.08.2018 and quash the same as illegal without jurisdiction and violative of principles of natural justice



and consequently, directing the 1st and 2nd Respondent to restore the FMB Sketch and revenue records as drawn in 2001 with respect to Channel situated in S.F.No.122/5A in Katchathanallur Village, Ilayankudi Taluk, Sivagangai District.

For Petitioner in both the : Mr.S.Karthick Subramanian
Writ Petitions

For Respondents 1 & 2 in both : Mr.A.K.Baskarapandian
the Writ Petitions Special Government Pleader

For 3rd Respondent in both the : Mr.B.Prahalad Ravi
Writ Petitions

COMMON ORDER

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

Since these Writ Petitions are connected and filed by the same petitioner, they are taken up together for disposal by this Common Order.

2.In W.P.(MD) No.3632 of 2019, the petitioner has challenged the proceedings of the first respondent Assistant Director and Personal Assistant to Collector, District Land Survey Office, Sivagangai dated 02.08.2018, which is addressed to the second respondent Thasildar, Ilayankudi Taluk, in which, the first respondent has stated that there is no channel in existence in S.F.No.122/5A in Katchathanallur Village, Ilayankudi Taluk, Sivagangai District.

3.In our considered opinion W.P.(MD) No.3632 of 2019 has been filed as against the internal communication between two officials. It is for the Thasildar, Ilayankudi to take a decision and the petitioner cannot be stated to be aggrieved by the communication sent by the first respondent to second respondent. Therefore, at this juncture, we are not inclined to quash the impugned communication dated 02.08.2018.

4.Further, W.P.(MD) No.25414 of 2018 has been filed to direct the Inspector of Police, Ilayangudi Police Station to provide Police Protection for eviction of encroachment in the Odai, which is stated to be committed by the third respondent Jayaraman S/o. Karuppaiyah. Before doing so, the first respondent has to decide as to whether there is encroachment or not. Survey studies state that there is no Odai. At this juncture, we cannot express any opinion on the existence of Odai, but this issue has to be purely decided by the Government officials.

5.In view the above, W.P.(MD) No.3632 of 2019 is disposed of



with the following directions:

(i) The second respondent Thasildar, Ilaiyankudi, Sivagangai District is directed to take note of the report of the first respondent Assistant Director in Na.Ka.No.A1/2258/2018 dated 02.08.2018 and issue notice to the petitioner and the third respondent and proceed to take action in accordance with law.

(ii) Insofar as the decree obtained by the petitioner from the District Munsif Court, Ilangudi in O.S.No.23 of 2003 is concerned, since the authorities are not parties to the said suit, the judgment and decree passed in O.S.No.23 of 2003 will not bind the authorities.

Consequently, connected W.M.P. is closed. No costs.

6.In view of the order passed in W.P.(MD) No.3632 of 2019, W.P.(MD) No.25414 of 2018 is closed. No costs.

Sd/-

Assistant Registrar (AD II)

// True Copy //

Sub Assistant Registrar(CS)

sj

To

1.The Assistant Director and Personal Assistant to Collector,
District Land Survey Office,
Sivagangai.

2.The Thasildar,
Ilaiyankudi Taluk Office,
Ilaiyankudi,
Sivagangai District.

3.The Inspector of Police,
Ilayangudi Police Station,
Ilayangudi,
Sivagangai District.

+1 CC to M/s.B.PRAHALAD RAVI, Advocate (SR-94008[F] dated 23/10/2019)

+1CC TO MR.S.KARTHICK SUBRAMANIAN, ADVOCATE, SR.NO.93573

W.P. (MD) Nos.25414 of 2018 and 3632 of 2019

21.10.2019

KK/SAR/18.11.2019/3P-6C/

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