

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2020

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.12791 of 2019
And
W.M.P.No. 12998 of 2019

T.Malathy

... Petitioner

Vs

1. The District Collector
Tiruvallur District.
2. The Tahsildar
Ponneri Taluk,
Ponneri
Tiruvallur District 601 204
3. The Special Officer cum Block Development Officer
(Village Panchayats)
Shozhavaram Panchayat
GNT Road
Shozhavaram
Chennai - 600 067.
4. The Secretary
Village Panchayat
Shozhavaram Panchayat,
Library Street, Chennai - 600 067.
5. Mr.M.Munikrishnan
6. Mrs.Jayakumari
7. Mrs.Vijaya
8. Mrs.Jegatha Durai
9. Mrs.Selvi

... Respondents

PRAYER : Writ Petition filed under 226 of the Constitution of India to issue a Writ of Mandamus or other orders in the

nature of Writ directing the respondents 1 to 4 to initiate appropriate action in accordance with law to remove the unauthorised and illegal encroachments on the Government Farm Land measuring in extent Hc.0.18.0 Acres, and comprised in S.No.520, of Shozhavaram Village, Ponneri Taluk, Tiruvallur District and to forbear the respondents 1 to 4 from granting any permission for putting up any further structures on the land at the site of the said encroachments.

For Petitioner : Mr. P.Amarnath

For RR 1 to 4 : Mr.R.Vijayakumar
Additional Government Pleader
: Mr.N.Ramesh
RR 5 to 8
R9 : Given up

ORDER
(Order of the Court was made by M.M.SUNDRESH, J)

The petitioner, who is an Advocate, contested the election against the fifth respondent.

2. The fifth respondent has filed the suit against the petitioner for permanent injunction in O.S.No. 130 of 2017 and it is pending.

3. Now, the petitioner has come forward with the present Writ Petition by way of Public Interest Litigation, alleging that the private respondents have encroached the land and their occupation over it is illegal and the said land is the subject matter of the suit filed by the fifth respondent.

4. The learned counsel for the petitioner submitted that the private respondents have illegally encroached upon the land and therefore, their illegal encroachment has to

be removed forthwith.

5. The learned counsel appearing for the private respondents, viz., R5 to R9 submitted that the petitioner, being a party to the suit, has suppressed the material facts and an interlocutory application has been filed in the suit, seeking to implead the public authorities as party/defendants, includes respondent No. 4 before us.

6. Admittedly, a suit has been filed in respect of very same subject land in respect of which, the present Writ Petition has been filed. Therefore, the petitioner has to workout his remedy in the suit. We do not find any interest much less public interest to entertain the present Writ Petition. This Writ Petition is nothing but a private litigation in view of the prayer sought for in the civil suit regarding a dispute arose between the parties in the election.

7. The learned counsel appearing for the private respondents submitted that the land is found to be Thoppu Poromboke coming with the purview of the respondent No.4 and therefore, the said respondent has to take appropriate action.

8. Be that as it may, this is not a case where the jurisdiction Court under suit cannot be invoked especially when a suit is filed pending between the petitioner and the fifth respondent. Hence, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. However, we direct the fourth respondent to proceed against the private respondents in accordance with law.

9. We also direct the Civil Court where the civil suit is pending to proceed in accordance with law without being influenced by any of observation made in this order.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

vsg

To

1. The District Collector
Tiruvallur District.
2. The Tahsildar
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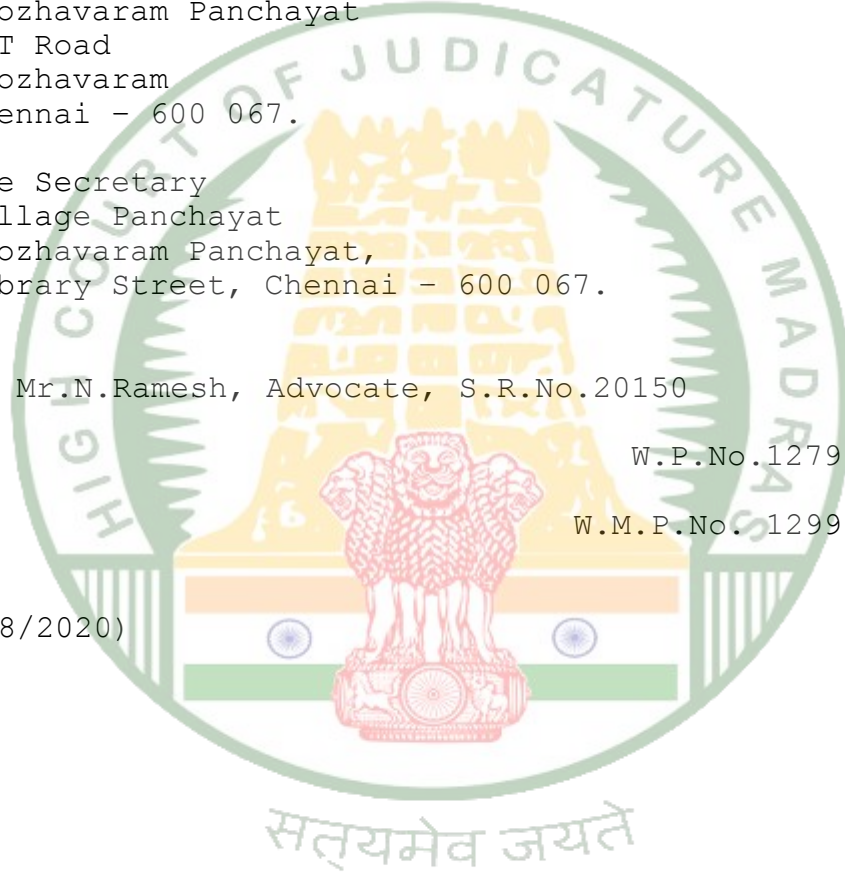
+1cc to Mr.N.Ramesh, Advocate, S.R.No.20150

W.P.No.12791 of 2019

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NR (CO)
CB(03/08/2020)



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