



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2020

CORAM:

THE HONOURABLE **MR. JUSTICE S.S.SUNDAR**
and
THE HONOURABLE **MR. JUSTICE C.SARAVANAN**

W.P (MD) No. 5765 of 2020

S.M.Mohamed Ali
Jamath President,
Nayina Mohammed Jumma Pallivasal : Petitioner

Vs.

- 1.The District Collector,
Tirunelveli District.
- 2.The Tahsildar,
Kadayanallur Taluk,
Thenkasi.
- 3.The Block Development Officer,
Pasumai Veedu Thoguppu Thittam,
Kadayanallur Panchayat Union,
Kadayanallur.
- 4.Pechiammal
- 5.The Tamil Nadu Wakf Board,
represented by its Chief Executive Officer,
No.3, Santhome High Road, Mylapore,
Chennai - 600 004. : Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents herein to remove the encroachment made by the fourth respondent by illegal construction with the Government fund aid from respondents 1 to 3 herein under the "Pasumai Veedu Thoguppu Thittam" in S.No.323/3A3, in Oormel Azhagian Village, Kadayanallur Taluk, Thenkasi District.

For Petitioner : Mr.K.Appadurai
For R1 and R2 : Mr.D.Muruganandam
Additional Government Pleader



For R3 : Mr.N.Jeyakumar
Additional Government Pleader
For R4 : Mr.T.S.Mohammed Mohideen
For R5 : Mr.S.A.Ajmal Khan

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ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

1.This Writ Petition is filed for issuing a direction to the official respondents to remove the encroachment made by the fourth respondent by illegal construction with the Government fund aid from respondents 1 to 3 herein under the "Pasumai Veedu Thoguppu Thittam" in S.No.323/3A3, in Oormal Azhagian Village, Kadayanallur Taluk, Thenkasi District.

2.The petitioner states that the property comprised in S.Nos.323/3A2, 323/3A3 and 323/3A4 in Oormel Azhagian Village, Kadayanallur Taluk, Thenkasi District was gifted in favour of the petitioner Pallivasai, by a registered deed of gift in the year 1954. Stating that a portion of the property belonging to Pallivasai in S.No.323/3A3 on the northern side is encroached by the fourth respondent by putting up a house construction under "Pasumai Veedu Thoguppu Thittam", the petitioner has come forward before this Court for removing the said encroachment.

3.The fourth respondent is a private individual and hence, no Writ Petition will lie against the fourth respondent. The Writ Petition alleging encroachment by the fourth respondent in the property of petitioner for removal of encroachment cannot be entertained. The petitioner as the owner of the property encroached has to approach the Civil Court to seek appropriate remedy as against the fourth respondent. This Court, therefore, do not find any merit in the Writ Petition. Reserving the right to the petitioner to approach Civil Court for appropriate relief, the Writ Petition is dismissed. No costs.

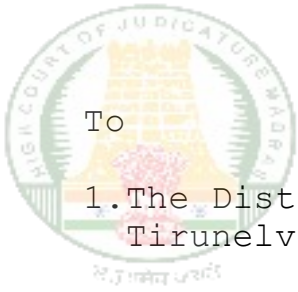
Sd/-

Assistant Registrar(CS)

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/ /2020

Sub Assistant Registrar(CS)



To

1.The District Collector,
Tirunelveli District.

2.The Tahsildar,
Kadayanallur Taluk,
Thenkasi.

3.The Block Development Officer,
Pasumai Veedu Thoguppu Thittam,
Kadayanallur Panchayat Union,
Kadayanallur.

+1 CC to M/s.T.S.MOHAMED MOHIDEEN, Advocate (SR-12645[F] dated 20/03/2020)

+1 CC to M/s.SPL.GP (SR-12679[F] dated 20/03/2020)

+1 CC to M/s.K.APPADURAI, Advocate (SR-12538[F] dated 19/03/2020)

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SPU(7.05.2020) 3P 7C