



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2021

CORAM:

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MRS. JUSTICE S.ANANTHI**

W.P. (MD)No.3981 of 2020

V.Sivagurunathan : Petitioner
Vs.

- 1.The District Collector,
Sivagangai,
Sivagangai District.
- 2.The Tahsildar (Land Survey),
Office of the Tahsildar,
Thirupattur, Sivagangai District.
- 3.The Executive Officer / Special Officer,
Selection Grade Town Panchayat,
Thirupattur, Sivagangai District.

4.K.Pandian : Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus directing the respondents 1 to 3 to remove the encroachment made by the 4th respondent at Ward No.10, Madurai Road, S.No.372/16, Thirupattur Revenue Village, Thirupattur Taluk, Sivagangai District.

For Petitioner : Mr.R.Velmurugan

For Respondents : Mr.K.P.Krishnadoss,
Special Government Pleader
for R.1 to R.3

Mr.A.C.Ganesan for R.4

ORDER

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

The petitioner seeks removal of encroachment. It appears that there are suits filed by the petitioner and the alleged encroacher, namely, the fourth respondent herein. The aforesaid facts have been



captured in the affidavit filed by the third respondent through the following paragraphs:

"6. With regard to the averments made in para 5 of the affidavit, it is submitted that the third respondent in his letter Na.Ka.No.916/2018/A3 dated 03.01.2020 requested the 2nd respondent to survey the encroachment made by the 4th respondent in S.No.372/16 Ward No.10 Sandu (pathai) Poramboke of Thirupathur Revenue Village and send a report so as to enable the third respondent, to evict the encroachment made by the fourth respondent. The survey report of the 2nd respondent is awaited.

9. With regard to the averments made in para 6 and 7 of the affidavit, it is submitted that K.Pandian, the 4th respondent has made a representation to the third respondent stating that he is enjoying the Poramboke land in S.No.372/16 for a long time and paying B.Memo penalty charges for the encroachment made by him. He has stated that he has also filed a suit in O.S.No.14 of 2018 before the Sub Court, Sivagangai. He has also requested that eviction proceedings could be initiated on receipt of judgment in O.S.No.14 of 2018. But the fourth respondent has not produced copy of plaint filed by him before Sub Court, Sivagangai.

10. It is submitted that K.Pandian, the fourth respondent has filed a suit in O.S.No.6 of 2020 before the District Munsif, Thirupathur seeking permanent injunction not to disturb the peaceful possession of the plaintiff's suit property by the Defendants. The petitioner has been impleaded as third defendant in the above suit.

11. It is submitted that K.Pandian, the fourth respondent has also filed I.A.No.3 of 2020 in O.S.No.6 of 2020 before the District Munsif, Thirupathur seeking temporary injunction not to disturb the peaceful possession of the plaintiff's suit property by the defendants. Copies of plaint in I.A.No.3 of 2020 in O.S.No.6 of 2020 are placed in the typedset.

12. It is submitted that the 2nd respondent will take action to evict the encroachment made by the fourth respondent, based on the outcome of the suit filed by the fourth respondent in O.S.No.6 of 2020 which is pending before the District Munsif, Thirupathur and after getting survey report from the second respondent."

2. In the pending suits, it appears there is no interim order. Therefore, there is no bar for the third respondent to take appropriate action in the manner known to law.

3. In such view of the matter, we direct the respondents 1 to 3, as the case maybe, to take appropriate action towards removal of encroachment, in accordance with law, after due notice to the parties concerned, within a period of eight weeks from the date of receipt of a copy of this order.



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4. In fine, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gk

To

1.The District Collector,
Sivagangai, Sivagangai District.

2.The Tahsildar (Land Survey),
Thirupattur, Sivagangai District.

3.The Executive Officer / Special Officer,
Selection Grade Town Panchayat,
Thirupattur, Sivagangai District.

+1 CC to M/s.R.VELMURUGAN, Advocate (SR-12729[F] dated 22/03/2021)

+1 CC to M/s.SPL GP (SR-12961[F] dated 23/03/2021)

W.P. (MD)No.3981 of 2020

NA(CO)

KK(09.04.2021) 3P 6C