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W.P.(MD) No.2738 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.09.2022

CORAM:

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

W.P.(MD) No.2738 of 2013

and

M.P.(MD) No.1 of 2013

Kaspar

... Petitioner

-VS-

- 1.The District Collector
Sivagangai District
Sivagangai
- 2.The Tahsildar
Karaikudi Taluk
Karaikudi
Sivagangai District
- 3.The Inspector General of Registration
120, Santhome High Way
Chennai- 028
- 4.The District Registrar
Sivagangai District
Sivagangai



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5.The Sub Registrar No.II
Sub Registrar Office
Karaikudi
Sivagangai District

6.Thinappan @ Ranganathan

7.S.N.S.N.Narayanan Chettiar

8.Soundaram Aachi

9.S.N.S.N.N.Chidamparam

10.S.N.S.N.N.Muthuraman

11.S.N.S.N.N.Somasundaram

12.S.N.S.N.N.Chokkalingam

13.S.N.S.N.N.Tamilarasan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 & 2 to remove the encroachment made by the sixth respondent in the Sy.No.82/9, situated at Amaravathy Group, Amaravathy Pudur, Devakottai Rastha, Karaikudi Taluk, Sivagangai District.



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For Petitioner : Mr.R.Murugappan

For Respondents : Mr.V.Nirmal Kumar
Government Advocate for R1 to R5
Mr.V.R.Shanmuganathan for R6
No appearance for R7 to R13

ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

The prayer in this writ petition is for issuance of a writ of mandamus directing the respondents 1 & 2 to remove the encroachments made by the sixth respondent in Survey No.82/9, at Amaravathy Group, Amaravathy Pudur, Devakottai Rastha, Karaikudi Taluk, Sivagangai District.

2. According to the petitioner, despite the fact that the land in the aforesaid survey number is belonging to the Government, the respondents 7 to 12 created forged documents in respect of the above property and sold the same to the sixth respondent.

3. The learned counsel appearing for the sixth respondent submitted that the property in question is not a Government property, but it is private patta property. In fact, the sixth respondent filed a suit in O.S.No.199



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of 2008, before the Additional District Munsif Court, Karaikudi, seeking the relief of recovery of possession, arrears of rent and perpetual injunction in respect of the subject property and the said suit was decreed by judgment and decree dated 15.07.2010 upholding the title of the sixth respondent to the subject property; the first appeal preferred by the petitioner herein in A.S.No. 52 of 2010, before the Sub Court, Devakottai, against the said judgment and decree, was dismissed by judgment and decree dated 19.01.2011 and the second appeal preferred by the petitioner herein before this Court was also dismissed by judgment and decree dated 15.02.2012. Therefore, in all proceedings, the sixth respondent has succeeded and the claim made by the petitioner herein has been rejected. Therefore, the learned counsel prays for dismissal of this writ petition.

4. Perusal of the judgment and decree passed in O.S.No.199 of 2008 shows that the relationship between the petitioner and the sixth respondent was one of landlord and tenant and that was established by the sixth respondent / plaintiff and therefore, the Trial Court has granted the relief of recovery of possession, arrears of rent and perpetual injunction etc. Though the petitioner filed appeals, he was unsuccessful in the two appellate



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Courts, thereby, the judgment and decree in the suit attained finality. From the above, it could be seen that there is no encroachment as alleged by the petitioner and the property in question is a private patta land and further, the writ petition has been filed only with mala fide intention. Therefore, this Court finds no merits in this writ petition.

5. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [J.S.N.P., J.]

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Index : Yes / No

Internet : Yes / No

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- 5.The Sub Registrar No.II,
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