



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.06.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.756 of 2017

WEB COPY

Mohamed Ameen

... Petitioner

v.

1.The District Collector,
Pudukkottai District,
Pudukkottai.

2.The Tahsildar,
Manamelgudi Taluk,
Pudukkottai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to survey the petitioner's property in Survey No.49/12A and its extent of 0.02.5 ares along with Survey No.49/9A situated in Manamelkudi Village and Taluk, Pudukkottai District based on his representation dated 04.01.2017.

For Petitioner
For Respondents

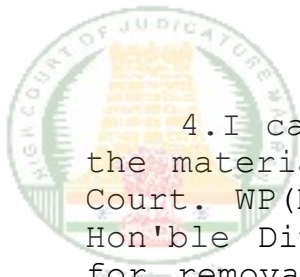
: Mr.Prasanna Rajadurai
: Mr.K.Balasubramani,
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2.The prayer in the writ petition is for directing the respondents to survey the petitioner's property in Survey No.49/12A along with Survey No.49/9A in Manamelgudi Village. The petitioner has given representation dated 04.01.2017 and since it was not acted upon, the present writ petition came to be filed.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He took me through the materials enclosed in the typed set of papers. The respondents have filed a detailed counter affidavit and the learned Special Government Pleader called for dismissal of the writ petition in the light of the facts projected in the counter affidavit.



4.I carefully considered the rival contentions and went through the materials on record. The petitioner is not a stranger to this Court. WP(MD)Nos.14964 of 2013 and 9189 of 2014 were filed and the Hon'ble Division Bench by order dated 22.07.2015, gave a direction for removal of the encroachment in S.No.49/9. Subsequently, when action was taken, the petitioner herein filed WP(MD)No.3005 of 2016. By order dated 24.02.2016, the writ petition was disposed of in the following terms :

"2.Mr.M.Alagadevan, learned Special Government Pleader has produced an authenticated sketch prepared by the Taluk Survey Inspector and attested by the Tahsildar, Manamelkudi. Based on the above, he also made submission that the writ petitioner, who is in possession of his property in Sy.No.49/12A, in Manamelkudi Vilalge, Pudukottai District has encroached upon a portion of property in S.No.49/9A, which is adjacent to Sy.No.12/2A.

3.We have already recorded the submission of learned counsel for the petitioner that the petitioner has no objection for removing the encroachment in Sy.Nos.49/9 and 49/9A respectively. Now, when the Special Government Pleader has demonstrated encroachment in Sy.No. 49/9A, by producing an authenticated sketch, there should not be any hindrance in proceeding with the notice in R.C.No.2671/A2/2014, dated 05.02.2016 and to remove the encroachment, as per the provision of the Land Encroachment Act.

4.With the above direction, the Writ Petition is disposed of. It is made clear that the petitioner, who is now in possession of Sy.No.49/12A shall not make any objection for the removal of encroachment in Sy.No.49/9 and 49/9A and in the event of any obstruction, it is made clear that the matter would be viewed seriously by this Court."

5.When a categorical finding had been given in the earlier writ petition filed by the petitioner himself, it is not open to him to maintain a fresh writ petition virtually on the same cause of action. The writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS III)

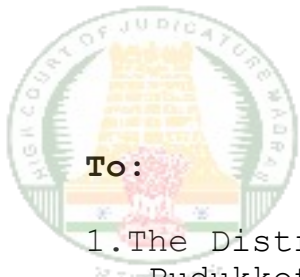
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/ /2022

Sub Assistant Registrar(CS)

SKM

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant



To:

1.The District Collector,
Pudukkottai District, Pudukkottai.

2.The Tahsildar,
Manamelgudi Taluk,
Pudukkottai District.

+1 CC to M/s.NA.PALANIYANDI, Advocate (SR-24520[F] dated
08/06/2022)

+1 CC to M/s.SPL.GP (SR-24868[F] dated 09/06/2022)

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MGJ(14.06.2022) 3P 5C