



WEB COPY

W.P.No.30091 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.11.2023

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

W.P. No.30091 of 2023
and
W.M.P.No.29714 of 2023

Syed Rahamathullah

... Petitioner

-VS-

1.The Collector,
Office of Collectorate,
Thiruvannamalai District.

2.The Superintendent of Police,
Office of the Superintendent,
Tiruvannamalai District.

3.Block Development Officer,
Thurichapuram,
Thiruvannamalai District.
Pin-606 805.

4.The District Revenue Officer,
Thiruvannamalai District,
Thiruvannamalai.

5.The Chief Engineer,
Tamil Nadu Electricity Board,
Thiruvannamalai District.

6.Assistant Engineer,



Tamil Nadu Electricity Board,
Vada Andapattu Panchayat,
Thiruvannamalai District.

7.The Executive Engineer,
Tamil Nadu Electricity Board,
Thiruvannamalai District.

8.The Tahsildar,
Thiruvannamalai District,
Thiruvannamalai.

...Respondents

PRAYER : Writ Petition has been filed under Article 226 of the Constitution of India, to issue Writ of Mandamus to direct the District Collector to take action pursuant to his earlier direction O.MU(M3)/25261/2017 dated 02.11.2017 and to the petitioner's representation dated 30.12.2022.

For Petitioner : No Appearance

For Respondents : Mr.S.Udaya Kumar,
Government Advocate (Crl.Side)

ORDER

This Writ Petition is filed under Article 226 of Constitution of India under the criminal jurisdiction of the Code alleging that there is an encroachment in the public place and same has not been observed by the Revenue Authorities with the help of the police by arraying the Superintendent of Police as one of the respondent.

2. The petitioner herein has manipulated to list the matter before the



criminal bench. The counter filed by the learned Government Advocate (CrI.Side) indicates that there is a dispute regarding the property bearing Survey No.63/3 to an extent of 1.75.5 hectares in Vada Andupattu Village, Thiruvannamalai. Earlier Writ Petition was filed by the petitioner herein in W.P.No.38059 of 2003 seeking mandamus forbearing the Revenue Authorities from interfering peaceful possession in respect of the said property, the said Writ Petition was disposed on 16.03.2004 that he must be removed from the encroached premises after following due process of law.

3. Another Writ Petition was filed by this petitioner in W.P.No.4190 of 2022 seeking direction to the District Collector to implement the order passed on 02.11.2017. This petitioner given a representation to the Collector that his land bearing Survey No.63/3a at Vada Andupattu village, Thiruvannamalai District is acquired for public purpose and therefore, the encroacher has to be removed. However, it was found that the acquisition proceedings was dropped.

4. The District Collector on the representation of this petitioner has suspected other Revenue Officials, the Superintendent of Police and the



Superintending Engineer of Electricity Board to take appropriate action against the encroacher. This is the third Writ Petition filed to implement the direction of the District Collector issued for removal of encroacher and take action against the person who had provided electricity service connection.

5. The enquiry conducted by the Superintendent of Police reveal that a civil dispute between the petitioner and the occupant of the land which has to be resolved by due process of law and the police can not initiate a criminal action against the occupant of the land unless they are declared as illegal encroacher. Though it has been time and again stated that the dispute regarding title or possession cannot be resolved to police intervene, this petitioner knowing fully well had been filed a Writ Petition repeatedly without resorting to the legal process available to him but want to get relief with the help of police. Hence this Writ Petition is ill conceived and same is dismissed. Consequently, the connected Miscellaneous Petition is also dismissed.

21.11.2023

Internet : Yes/No
Index : Yes/No
rpl



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Dr.G.JAYACHANDRAN, J.



W.P.No.30091 of 2

rpl

9.The Public Prosecutor,
High Court of Madras,
Chennai.

W.P. No.30091 of 2023

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