



W.P.(MD)No.16493 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.07.2023

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.(MD)No.16493 of 2023

and

W.M.P(MD)No.13791 of 2023

K.Ananthaperumal

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The District Revenue Officer,
O/o.of the District Revenue Office,
Tirunelveli,
Tirunelveli District.

3.The Revenue Divisional Officer,
O/o.the Revenue Divisional Office,
Tisayanvillai,
Tirunelveli District.

4.The Revenue Tahsildar,
O/o.the Tahsildar,
Tisayanvillai,
Tirunelveli District.

5.A.Selvaraj

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the official respondents herein to remove the encroachments made by the fifth respondent herein on the “Government Paadhais” in S.Nos.715/1 and 712/5 situated at Kaalikumarapuram, Karaisuthupudur, Thisaiyanvillai Taluk, Tirunelveli District within the period that may be stipulated by this Court.

For Petitioner :Mr.S.Mohamed Suhail

For R-1 to R-5 :Mr.D.Sachikumar,
Additional Government Pleader

ORDER

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

Heard Mr.S.Mohamed Suhail, learned counsel for the petitioner and Mr.D.Sadiq Raja, learned Additional Government Pleader for respondents 1 to 4.

2. This Public Interest Litigation is filed for issuance of a Writ of Mandamus, directing the official respondents to remove the encroachment made by the fifth respondent on the “Government Paadhais” in S.Nos.715/1 and 712/5 situated at Kaalikumarapuram, Karaisuthupudur, Thisaiyanvillai Taluk, Tirunelveli District.



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3. It is now admitted before this Court that the alleged encroachment is in respect of small extent of lands measuring 16 sq. ft., and 26.05 sq. ft., in Survey Nos.712/5 and 715/1 respectively in Karaisuthupudur, Thisaiyanvillai Taluk, Tirunelveli District. The petitioner himself has admitted that one of the encroachers, namely, the fifth respondent herein, who is stated to be in encroachment, has filed a suit in O.S.No.62 of 2022 before the District Munsif Court, Radhapuram, wherein an interim injunction has also been granted against the Panchayat President and Tahsildar in I.A.No.3 of 2022.

4. Though the learned counsel appearing for the petitioner states that there is a bar under Section 14 of the Tamil Nadu Land Encroachment Act, 1905(in short “the Act”), to entertain a suit in respect of eviction of unauthorized occupants, this Court finds that a suit for declaration or injunction either challenging the eviction proceedings or restraining the officials from proceeding under the Act is barred. However, there is no bar to file a suit for declaration of one's title and injunction under Section 14 of the Act. In this case, encroachment is not admitted.

5. In view of the above, since the dispute is in respect of a small extent of land, this Court is of the view that the fifth respondent should be



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given sufficient opportunity to establish his independent right in respect of the lands in which he is in possession as a owner. Therefore, this Court is not inclined to entertain this Writ petition.

In the result, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]
10.07.2023

Index : Yes / No
NCC : Yes/No

pm

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