



W.P(MD)No.29101 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.12.2023

CORAM :

THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.P(MD)No.29101 of 2023

Antony Arunprasanth

... Petitioner

vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Thasildar,
Vadipatti Taluk,
Vadipatti, Madurai.

3.The Block Development Officer,
Allanganallur Block,
Vadipatti, Madurai.

4.The Inspector of Police,
Vadipatti Police Station,
Vadipatti, Madurai District.

5.The President,
Ayyankottai Village Panchayat,
Alanganallur Block,
Vadipatti Taluk,
Madurai District.

6.V.Subaiah

... Respondents



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Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 5 to remove the encroachment in public pathway situated in survey No.568/1 to a total extent of 0.07.05 ares of Ayyankottai Village by their proceedings of respondents 2 to 5 on 01.09.2023, 03.10.2023, 01.11.2023, 14.11.2023 and 18.11.2023 and also consider the petitioners representation dated 01.08.2023.

For Petitioner : Mr.S.Sivaprakash

For Respondents : Mr.M.Senthil Ayyanar,
Govt. Advocate for R1 to R3 & R5
Mr.S.Ravi,
Additional Public Prosecutor for R4
Mr.G.Balasubramanian for R6

ORDER

[Order of the Court was made by **M.SUNDAR, J.**]

Captioned 'Writ Petition' ('WP' for the sake of brevity) has been filed in this Court on 04.12.2023 as a 'Public Interest Litigation' ('PIL' for the sake of brevity).

2. Factual matrix in a nutshell is that the subject matter of captioned purported PIL is alleged encroachment in 'S.No.568/1 in Thanichayam Utkadai, Ayyankottai Village, Vadipatti Taluk, Madurai



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District admeasuring 0.07.05 ares or thereabouts' (hereinafter 'said land' for the sake of convenience and clarity); that according to PIL petitioner, sixth respondent (to be noted, sixth respondent is a private respondent) has encroached upon said land to an extent of 0.00.45 sq.mts by putting up a shop; that captioned PIL has been filed after sending representation dated 01.08.2023 in this regard to respondents 2 to 5 (to be noted, respondents 2 to 5 are official respondents); that according to PIL petitioner the jurisdictional Thashilar, has made a proceedings dated 01.09.2023 confirming the encroachment.

3. Issue notice.

4. Mr.M.Senthil Ayyanar, learned Government Advocate accepts notice for respondents 1 to 3 and 5. Mr.S.Ravi, learned Additional Public Prosecutor accepts notice for fourth respondent. Mr.G.Balasubramanian (Enrollment No.895/1998), learned counsel with address for service at 259, LIC Colony, K.K.Nagar, Madurai, who is present in Court accepts notice for sixth respondent (private respondent).



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5. Owing to the narrow scope of the captioned matter, main WP was taken up in the Admission Board itself with the consent of both sides ie., all concerned.

6. At the outset, learned counsel for sixth respondent pointed out that sixth respondent has filed a suit in 'O.S.No.133 of 2023 on the file of District Munsif Court, Vadipatti' (hereinafter 'said suit' and 'said civil Court' for the sake of convenience and clarity) arraying PIL petitioner in the captioned PIL WP as first defendant. To be noted, there are two other defendants, who are private parties.

7. This Court had the benefit of perusing the plaint. Plaint schedule property is clearly said land. The said suit is for bare injunction to protect possession. Learned counsel for sixth respondent pointed out that first defendant in the suit (PIL petitioner before us) has been duly served with suit summons, he has entered appearance through a counsel and the matter now stands over to 12.12.2023 (tomorrow) for filing written statement.



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8. This Court went into ECourts Services of the District Court to ascertain the position and the position as available in the ECourts Services is as follows:

District Munsif Court, Vadipatti	
Case Details	
Case Type	OS - Original Suit
Filing Number	188/2023
Registration Number	133/2023
CNR Number	TNMD19-000172-2023
Filing Date	01-11-2023
Registration Date	01-11-2023

Case Status	
First Hearing Date	01st November 2023
Next Hearing Date	12th December 2023
Case Stage	Written Statement
Court Number and Judge	1-District Munsif, Vadipatti.

Petitioner and Advocate	
1) V. Subbiah Maniyam Advocate- P. Sivaram	

Respondent and Advocate	
1) S. Arun @ Anthony Arulraj 2) Nagalakshmi 3) Mani @ Karuppanan	

Acts	
Under Act(s)	Under Section(s)
Code of Civil Procedure	27(c)

Case History				
Registration Number	Judge	Business on Date	Hearing Date	Purpose of Hearing
133/2023	District Munsif, Vadipatti.		22-11-2023	Issue of Service
133/2023	District Munsif, Vadipatti.		12-12-2023	Written Statement

Process Details		
Process Id	Process Date	Process title
PTNMD190001722023	01-11-2023	Summons to appear in person [O.5, R. 3]



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The screenshot shows the 'View Business' screen of the ECourts Services app. It displays the following information:

- Daily Status**
- In The Court Of :** District Munsif, Vadipatti.
- CNR Number :** TNMD190001722023
- Case Number :** OS/0000133/2023
- V. Subbiah Maniyam Versus S. Arun @ Anthony Arulraj**
- Date :** 22-11-2023

Business	: Vakalath filed Defendant 1 to 3 by Mr. R, Thirumurugan Plaintiff present call on 12.12.23 for written statement
Next Purpose	: Written Statement
Next Hearing Date	: 12-12-2023
District Munsif, Vadipatti.	

9. From the aforementioned status in the ECourts Services, it becomes clear that PIL petitioner in his capacity as first defendant in the said suit in the said civil Court has entered appearance through a counsel on 22.11.2023 itself. The support affidavit in captioned PIL WP is dated 04.12.2023 (after entering appearance in said suit in said civil Court) and



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captioned PIL has been filed in this Court on 04.12.2023 (as already alluded to supra). In the five pages nine paragraphs support affidavit, there is no whisper about said suit in said civil Court. This in our considered opinion is not just a case of omission but a case of suppression, as the factum regarding pendency of said suit in said civil Court has not been mentioned anywhere in the support affidavit.

10. Captioned PIL WP deserves to be dismissed with costs on this one ground. However, before we do that we notice (as captured supra) that from the proceedings dated 01.09.2023 made by jurisdictional Thashildar saying that there is alleged encroachment in said land which has been classified as 'நத்தம் தெரு'. Therefore, we deem it appropriate to refer the matter to the Divisional Monitoring Committee vide G.O. (Ms)No.64, Revenue and Disaster Management Department, Land Disposal Wing, dated 08.02.2022 (to be noted, divisional level committee is entrusted with the works of identifying, enumerating and reporting of category wise objectionable and unobjectionable encroachments and monitoring the action taken against the encroachments at Taluk level) for examining whether there is encroachment *qua* said land dehors the pendency of said suit in said civil Court and proceed further in



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accordance with law. In doing so, the sixth respondent shall provide adequate opportunity to show cause. Be that as it may, we also make it clear that it is open to the State / Revenue authorities to implead themselves in said suit in said civil Court and ensure that public land is protected, if it is a case of encroachment and if it is so identified by the aforementioned Divisional Monitoring Committee. To be noted, this direction is given by discharging the PIL petitioner and this Court acting on the information and case file before it.

11. Captioned WP is dismissed. Though this is a fit case for imposing costs, as one off matter make it clear that this will not serve as a precedent, we refrain from imposing costs. There shall be no order as to costs.

(M.S., J.) (R.S.V., J.)
11.12.2023

Index : Yes/No
Neutral Citation : Yes/No
vsm



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and
R.SAKTHIVEL, J.

vsm

ORDER MADE IN
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