



W.P.(MD) No.2671 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD) No.2671 of 2024
and W.M.P.(MD) Nos.2681, 2682 and 2684 of 2024**

M.Srikumar

... Petitioner

-VS-

1.The District Collector,
O/o.District Collector,
Nagercoil,
Kanyakumari District.

2.The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Nagercoil,
Kanyakumari District.

3.The District Revenue Officer,
Kalkulam Taluk,
Nagercoil,
Kanyakumari District.

4.Sharmila

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the 3rd respondent vide O.Mu.(M4)/141535/2023 dated 20.11.2023 and consequentially set aside the order passed by the 2nd respondent vide his proceedings MOO-M-A3/5225/2023 dated 03.10.2023 with regard to the encroachment of the petitioner's land in Survey No.112/1, Aloor Village, Kalkulam Taluk, Nagercoil by the 4th respondent and quash the same as illegal.

For Petitioner : Mr.G.Anto Prince

For Respondents : Mr.S.P.Maharajan,
Special Government Pleader for R1 to R3

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition has been filed challenging the order passed by the 3rd respondent vide O.Mu.(M4)/141535/2023 dated 20.11.2023 and the consequential order passed by the 2nd respondent vide his proceedings MOO-M-A3/5225/2023 dated 03.10.2023, with regard to the encroachment of the petitioner's land in Survey No.112/1, Aloor Village, Kalkulam Taluk, Nagercoil by the 4th respondent.



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2. By consent of both sides, the Writ Petition is taken up for final disposal at the time of admission itself. Considering the nature of the order proposed to be passed in this Writ Petition, protecting the interests of the 4th respondent also, notice to the 4th respondent is dispensed with.

3. According to the petitioner, the property in question viz., S.No. 112/2, Aloor Village, Kalkulam Taluk, Nagercoil, has been unlawfully encroached by the 4th respondent by destroying the fence by stating that a specific portion of the property belongs to him. Hence, the petitioner lodged a police complaint, but no action was taken. Therefore, he made a representation to the second respondent to probe into the encroachment of the petitioner's land. However, the second respondent passed the impugned order dated 03.10.2023, stating that the property in question is a patta land and therefore, it is for the petitioner to approach the jurisdictional police by preferring a complaint. Against that order, the petitioner filed appeal before the third respondent and the third respondent rejected the same through proceedings in O.Mu.(M4)/141535/2023 dated 20.11.2023. Hence, the present Writ Petition.



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4. In support of his submissions, the learned counsel for the petitioner relied on the decision of the Division Bench of this Court in ***Kuppuswami Nainar v. The District Revenue Officer, Thiruvannamalai and others*** reported in ***1995 (1) MLJ 426***, wherein this Court has held that even if the revenue authorities decide the question of title, that will not in any way affect the jurisdiction of the civil Court, which has to decide the question without reference to the decision of the revenue authorities.

5. Since the revenue authorities have categorically held that the property in question is a patta land, the official respondents have no authority to take action for removal of the encroachment. Therefore, the petitioner has to approach the competent civil Court for removal of encroachment in the private property and the said Court has to decide whether the property in question belongs to the petitioner or the 4th respondent. In such circumstances, we are not inclined to interfere with the impugned orders and it is open to the petitioner to approach the competent civil Court for relegating his grievances. If any suit is filed by the petitioner, the civil Court has to decide the suit independently based on the oral and documents produced.



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6. With the above observations, the writ petition stands dismissed.

No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

[D.K.K., J.] [R.V., J.]
08.02.2024

Index : Yes / No

Internet : Yes / No

SJ

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