



W.P. No.10129 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

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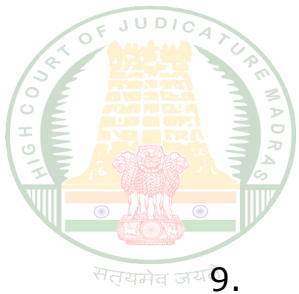
Radha

Petitioner

vs.

1. The District Collector
Thiruvallur District
2. The Tahsildar
Ponneri Taluk
Ponneri
3. The Block Development Officer
Minjur
Ponneri Taluk
Thiruvallur District
4. The President
Nandiambakkam Panchayat
Railway Station Road
Nandiambakkam
Ponneri Taluk
Thiruvallur District
5. Sivaraman
6. Satheeshkumar
7. A. Rajasekar
8. Kuppu

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9. S. Sekar

10. V. Sekar

11. Sundari

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 4 to remove the encroachment on the Vinayagar Koil I Cross Street comprised in Survey No.321/12, Nandiambakkam Village, Minjur Town Panchayat, Ponneri Taluk, Thiruvallur District made by encroachers, viz., RR 5 to 11.

For petitioner Mr. D. Gopinathan

ORDER

[made by M.SUNDAR, J.]

Captioned 'writ petition' (hereinafter 'WP' for the sake of brevity) has been filed with a prayer for a direction to issue a writ of mandamus *qua* official respondents, viz., RR 1 to 4 as regards removal of alleged encroachment in 'S.No.321/12, Nandiambakkam Village, Nandiambakkam Panchayat, Minjur Panchayat Union, Ponneri Taluk, Tiruvallur District, which, in other words, is Vinayagar Koil I Cross Street' (hereinafter 'said land' for the sake of convenience and clarity).



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2. Mr. D. Gopinathan, learned counsel on record for writ petitioner submits that private respondents, viz., RR 5 to 11 are alleged encroachers *qua* said land.

3. Learned counsel on record for writ petitioner submits that repeated representations for removal of aforereferred encroachment are in vain and that has necessitated the filing of the captioned WP.

4. When the captioned WP was taken up, it came to light that a suit being O.S.No.107 of 2024 on the file of the District Munsif Court, Ponneri, between some of the private respondents and the writ petitioner *qua* said land is pending; RR 7, 5, 6 and 9 in captioned WP are plaintiffs 1 to 4 respectively in the suit, writ petitioner is D1 and her spouse Vijayakumar is D2.

5. Description of the suit property as can be culled out from an affidavit filed in an interlocutory application in O.S.No.107 of 2024 is as under:



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SCHEDULE OF PROPERTY

Thiruvallur district, Ponneri Taluk, No: Nandiambakkam Village, Grama
Nantham Old Survey No.228/3Part New Survey No.321/12 situated at Vinayagar Koil
1st Cross Street, Nandiambakkam.

Bounded

North By : Road - 4.6 Meters

South By: Thollayiram katha Vinayagar Koil - 4.6 Meters

West By : S.No.321/6, 321/7, 321/8, 321/9, 321/10 and 321/11 – 52 Meters

East By: S.No.321/13, 321/4, 321/15, 321/16, 321/17 and 321/18 – 52 Meters

and within Jurisdiction of this Hon'ble Court

6. Therefore, it is clear that aforereferred suit pertains to said land but there is no whisper in the writ affidavit (writ affidavit dated 05.03.2025) regarding any civil suit much less aforereferred suit. In this view of the matter, the following dates are of relevance:

<i>S.No.</i>	<i>Date</i>	<i>Event</i>	<i>Remarks</i>
1	11.12.2024	Filing of O.S.No.107 of 2024 on the file of the District Munsif Court, Ponneri	--
2	11.12.2024	Filing of I.A. Nos.1 to 3 of 2024 along with suit	As of today, I.A. No.2 of 2024 is pending and is scheduled to come up on 09.06.2025; I.A. Nos.1 and 3 of 2024 have been disposed of.



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<i>S.No.</i>	<i>Date</i>	<i>Event</i>	<i>Remarks</i>
3	11.12.2024	First hearing of the suit	Adjourned to 09.06.2025 for written statement as can be seen from District Court's e-website
4	20.02.2025	Fourth listing of suit which is issue of service	--
5	05.03.2025	Date of writ affidavit	--
6	11.03.2025	Presentation of captioned WP	--
7	18.03.2025	O.S. No.107 of 2024 adjourned to 09.06.2025 for written statement	--
8	18.03.2025	Filing of captioned WP	--

7. From the aforereferred chronology of events, it is discernible that writ affidavit is dated 05.03.2025 and captioned WP has been presented on 11.03.2025. However, there is lack of clarity about the date of service of suit summons. Writ petitioner, as D1 in the suit, has entered appearance on 18.03.2025 and nothing prevented the writ petitioner from filing an additional affidavit post 18.03.2025, *i.e.*, filing of captioned WP.



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8. Faced with the above situation, learned counsel on record for writ petitioner fairly submitted that it is counsel mistake and sought leave of this Court to withdraw the captioned WP but made a plea to preserve all the rights and contentions of the writ petitioner to come up with a fresh writ petition after making full and complete disclosure *inter alia* about the aforereferred civil suit. Saying so, learned counsel has made an endorsement in the case file and a scanned reproduction of the same is as follows:

I may be permitted
to withdraw this
writ petition
with liberty to
file fresh writ
petition
25/3/25



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9. In the light of the narrative thus far, captioned WP is disposed of as withdrawn/closed albeit with preservation of rights and contentions of the writ petitioner to come to this Court again on the same cause with same / similar prayer after making full and complete disclosure *inter alia* about the aforereferred suit. Considering the nature of the submission made, we refrain from imposing costs.

(M.S., J.) (K.G.T., J.)
25.03.2025

cad
Index : Yes/No
NC : Yes/No



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M.SUNDAR, J.

and

K. GOVINDARAJAN THILAKAVADI, J.

cad

To:

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Ponneri
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