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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.07.2023**

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRVARTHY**

**W.A(MD)NO.1138 OF 2023
and
C.M.P(MD)No.8672 of 2023**

Arockia Dass

:Appellant/Fourth Respondents

.VS.

1.The District Collector,
Collectorate Campus,
Dindigul,
Dindigul District.

2.The Block Development Officer,
Sannarpatti Union Office,
Sannarpatti Union,
Dindigul,
Dindigul District.

3.The Village Panchayat President,
Koovamuthu Village Panchayat,
Sannarpatti Union,
Dindigul East Taluk,
Dindigul District.

: Respondents 1 to 3/
Respondents 1 to 3

4.P.Arulanandu

:4th Respondent/Petitioner

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent
praying this Court to set aside the order passed by this Court in
W.P(MD)No.8004 of 2022, dated 6.7.2022.



For Appellant :Mr.V.Illanchezian

For Respondents :Mr.D.Sachikumar
1 to 3 Addl.Got.Pleader

For Respondent-4 :Mr.R.R.Kannan

JUDGMENT

[Judgment of the Court was made by **S.S.SUNDAR,J.**]

This Writ Appeal is filed against the order of the learned Single Judge allowing the Writ Petition filed by the fourth respondent for issuance of a Writ of Certiorarified Mandamus.

2.The brief facts which are necessary for filing the above Writ Appeals reads as follows:

The fourth respondent-Writ Petitioner claiming exclusive title over the property in question on the basis of a Settlement Deed executed by his mother in his favour in respect of 22 cents of land, started putting up construction over a portion of the land conveyed to him under the Settlement Deed. The Petitioner wanted the construction to be done with the financial assistance under the Pradhan Mantri Awas Joyana Scheme 2021-22.The request of the fourth respondent was admitted and he was chosen as a beneficiary.Work order was also issued. The appellant appears to



have submitted a representation to the official respondents not to permit the fourth respondent/Writ Petitioner to put up construction by citing the pendency of a civil suit for partition. On the basis of the representation of the appellant, the order impugned in the Writ Petition was passed by the second respondent. Aggrieved by the same, the fourth respondent has filed the Writ Petition. The learned Single Judge of this Court on finding that the fourth respondent's claim of title over the property based on a registered Settlement Deed, cannot be ignored by the authorities merely because the appellant has filed a suit for partition including the property in which construction is proposed by the fourth respondent, allowed the Writ Petition

3. The Civil Court has not granted any interim order. The learned Single Judge allowed the Writ Petition after quashing the impugned order. As against the same, the fourth respondent therein has come by way of this Writ Appeal.

4. The learned counsel for the appellant submitted that the validity of the Settlement Deed alleged to have been executed by his mother in favour of the fourth respondent is also an issue before the Civil Court and that therefore, the Writ Petition



ought to have been dismissed.

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5.This Court finds no merit in the arguments advanced by the learned counsel for the appellants. The appellants having filed a suit for partition before the trial Court, is entitled to ask for interim order so as to protect his right over any portion of the property as a co-owner. The Civil Court is competent to grant any interim order to preserve the rights of the parties. During the pendency of the proceedings, the appellant herein instead of approaching the Civil Court has approached the officials to stall construction. This Court cannot encourage such parallel proceedings.

6.Therefore, leaving it open to the appellant to seek for appropriate interim relief before the Civil Court in the suit in O.S.No. 508 of 2021, this Writ Appeal stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

[S.S.S.R.,J.] [D.B.C.,J.]
24.07.2023

Index:Yes/No
Internet:Yes/No
NCC:Yes/No
vsn



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S.S.SUNDAR, J.
AND
D.BHARATHA CHAKRAVARTHY, J.

vsn

JUDGMENT MADE IN
W.A(MD)NO.1138 OF 2023
and
C.M.P(MD)No.8672 of 2023

24.07.2023