

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.4363 of 2014

M.Ganesan

.. Petitioner

vs

1. The Government of Tamil Nadu
rep.by its Chief Secretary
Fort St.George, Chennai-9.
2. The Government of Tamil Nadu
rep.by its Principal Secretary
Rural Development and Panchayat Raj Department
Fort St.George, Chennai-9.
3. The District Collector
Thanjavur, Thanjavur District.
4. The Block Development Officer
Sethubavachathiram Union
Pookkollai, Thanjavur District.
5. M.Shanthi .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondents 2 and 3 to consider the petitioner's representation dated 23.12.2013 and consequently to direct the respondents 2 and 3 to issue suitable orders to the fourth respondent to sanction the remaining aid of Rs.80,000/- to the petitioner for completing the construction of petitioner house at Manakkadu Village under "Indhira Ninaivu Kudiyiruppu Thittam".

For Petitioner : Mr.G.Rajesh

For Respondents: Mr.D.Suriya Narayanan
Government Advocate for RR1 to 3
Mr.S.Gunasekar for R4
Mr.S.R.Hemkumar for R5

ORDER

Heard Mr.G.Rajesh, learned counsel for the petitioner, Mr.D.Suriya Narayanan, learned Government Advocate appearing for respondents 1 to 3, Mr.S.Gunasekar, learned counsel appearing for R4 and Mr.S.R.Hemkumar, learned counsel for R5.

2. The petitioner seeks for a direction to the third respondent to pass suitable orders to the fourth respondent to sanction the remaining amount of Rs.80,000/- to the petitioner for putting up construction under the scheme commenced by the Government.

3. According to the petitioner he was identified as a beneficiary, under the Indira Nainaivu Kudiyiruppu Thittam [Indira Awas Yojana] for the year 2012-2013. By virtue of the said scheme, the petitioner is entitled to a sum of Rs.1,00,000/- for the purpose of putting up construction. It is not in dispute that the petitioner was selected as a beneficiary under the said scheme. Thereafter, after due inspection by the Block Development Officer of the Manakkadu Village Panchayat, the work order was issued on 13.06.2012 and a sum of Rs.20,000/- was also paid as a first instalment and the balance amount of Rs.80,000/- is yet to be paid. Therefore, the petitioner has approached this Court by way of this writ petition.

4. The third respondent has filed a counter affidavit, wherein it is stated that the fourth respondent on field verification found that the petitioner is living in the construction site without any dispute for more than 50 years. However, the only impediment for the third respondent to sanction the balance amount to the petitioner is only because of the pendency of suit for partition filed by the fifth respondent herein and her husband in O.S.No.2 of 2012 before the III Additional District Judge, Pattukottai.

5. A perusal of the records would show that the fifth respondent viz., M.Shanthi and her husband one M.Ramalingam has filed a suit in O.S.No.2 of 2012 before the III Additional District Judge, Pattukottai as against 26 defendants and they had sought for a preliminary decree for partition in their favour for granting 2/3 rd share in the suit A scheduled property, 2/6 th share in the B, C and D scheduled property and 2/15th share in the E scheduled properties and also to pass a final decree thereon by dividing the property by metes and bounds. It is pointed out by the learned counsel for the petitioner that the 20th defendant, viz., M.Ganesan in the said suit is the son of one Manickam from a different village and it is not the petitioner herein as the petitioner is the son of (Late) M.Maruthamuthu and he is residing in Survey

No.159/12A2 of Manakkadu Village. It is also submitted by the petitioner that the fourth respondent himself has verified the petitioner's occupation and also had stated that the petitioner is in occupation of the said land for more than 50 years.

6. It is further to be pointed out that under item No.30 of Part II of the E scheduled property mentioned in the plaint, the survey number is shown as 159/12A1 measuring an extent of 0.22.5 acres, whereas the petitioner claims to be in possession of Survey No.159/12A2 and states that he is not the 20th defendant. Thus, the dispute lies in a very narrow campus, which could very well be verified by the third and fourth respondents.

7. In view of the above stated position, there will be a direction to the third respondent to verify as to whether the 20th defendant in the suit pending before the III Additional District Judge, Pattukottai and the petitioner are different persons and as to whether, the property mentioned under item No.30 of the Part II of the E scheduled property of the plaint in O.S.No.2 of 2012 is different from the property in occupation of the petitioner, viz., survey No.159/12A2. The above verification shall be made after conducting an enquiry, in which the petitioner as well as the fifth respondent shall be summoned to appear in person and if the respondents 3 and 4 are satisfied that the schedule mentioned property of the plaint is different from the property in petitioner's possession, appropriate orders may be passed by respondents 3 and 4 for sanction of the remaining amount of Rs.80,000/- [Rupees eighty thousand only] under the Indira Ninaivu Kudiyiruppu Thittam [Indira Awas Yojana] for the year 2012-13. The above direction shall be complied with by the appropriate authority, within a period of three months from the date of receipt of a copy of this order.

8. With the above observation, this writ petition is disposed of. No costs.

Sd/-

Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

vj2

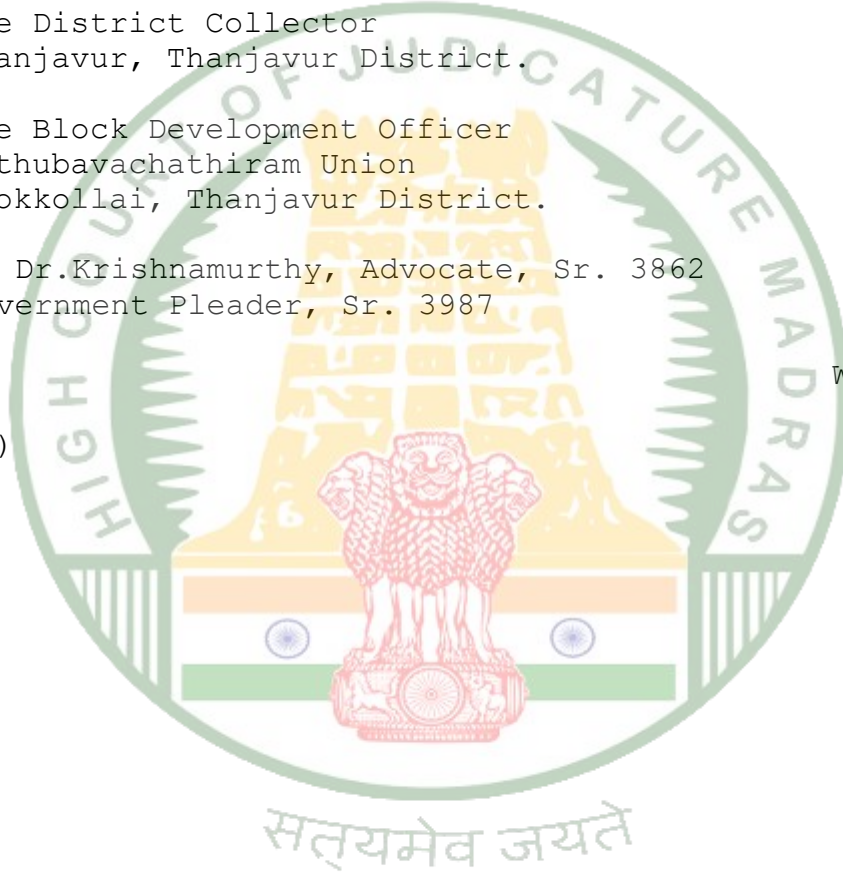
To

1. The Chief Secretary
to Government of Tamil Nadu
Fort St.George, Chennai-9.
2. The Principal Secretary
to Government of Tamil Nadu
Rural Development and Panchayat Raj Department
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3. The District Collector
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1 cc to Dr.Krishnamurthy, Advocate, Sr. 3862
1 cc Government Pleader, Sr. 3987

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