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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.08.2015

Coram

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P. (MD) .No.17 of 2011

N.Parthiban

:Petitioner

vs.

1.The District Collector,
Theni.

2.The Tahsildar,
Theni.

3.The Taluk Surveyor,
Theni.

4.E.Narayanan

5.The Manager,
U.R.C.Constructions Pvt. Ltd.,
Near Collector Office,
Theni.

: Respondents

(R5 dismissed for default on 26.07.2012)

Prayer: Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Certiorari calling for the records relating to the proceedings of the second respondent in Na.Ka.No.13079/2010/A6, dated 30.11.2010 for erecting of windmill in Survey No.42/2B in Jakalpatty village and quash the same.

For Petitioner

:Mr.H.Velavadhass

For R-1 R-3

:Mr.D.Muruganantham,
Additional Government Pleader

For R-4

:Mr.M.Suresh Kumar

O R D E R

The Writ Petition has been filed, praying for issuance of a Writ of Certiorari calling for the records relating to the proceedings of the second respondent in Na.Ka.No.13079/2010 /A6, dated 30.11.2010 for erection of windmill in Survey No.42/2B in Jakalpatty village and quash the same.

2.It has been averred in the petition that the petitioner and his brother are having lands in Survey No.42/1A, 1B in Jankalpatty Village, Theni District as ancestral property and they are doing agricultural



operation in the said property. While so, the adjacent land bearing registration No.42/2B was purchased by the fourth respondent herein and now the fourth respondent is making an attempt to erect a windmill in the said property. Therefore, the petitioner has raised his objection to erect windmill in Survey No.42/2B stating that if the windmill is erected, his land cannot be put into use for carrying out agricultural operation. The petitioner has also sent a representation to the first respondent on 16.11.2010. In spite of the same, the first respondent has not taken any steps to stop erection of the windmill in Survey No.42/2B. Instead of that the second respondent sent a reply, dated 30.11.2010 (signed on 01.12.2010) stating that the windmill is going to be erected for the benefit of general public and thus, the request of the petitioner cannot be accepted. In the meantime, the fourth respondent with the help of the fifth respondent, erected windmill in the land which belonged to the petitioner in Survey Nos.42/1A and 42/1B and hence, the petitioner has come forward with this Writ Petition for the above stated relief.

3. Today when the petition is taken up for consideration, the learned counsel for the fourth respondent submitted that the fourth respondent had already sold the land to one Mr.S.Chandrakumar and now the fourth respondent is not having any interest over the disputed property.

4. The learned counsel for the petitioner submitted that presently one Mr.S.Chandrakumar, is the owner of the property and therefore, he has filed a petition in M.P(MD)No.3 of 2011 for impleading the said Chandrakumar and while impleading the said Chandrakumar, the prayer made in this Writ petition could be allowed.

5. Heard the submissions made on either side and perused the materials available on record.

6. Considering the facts and circumstances of the case, this Court finds that the present Writ Petition was filed in the year 2005. Till date there is no interim order in this Writ Petition. Though a petition has been filed in M.P(MD)No.3 of 2011 to implead the said Chandrakumar, for the past four years, the petitioner has not taken any steps to implead him as a party in this Writ Petition. Considering the fact that the fourth respondent has already sold the land and also taking note of the fact that for the past four years, there is no interim order, there is no need for this Court to consider the prayer made by the petitioner to implead the said Chandrakumar at this juncture. Hence, M.P(MD)No.3 of 2011 is dismissed. Further, this Court does not find any merit in the Writ Petition and accordingly the same is dismissed. No Costs.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The District Collector, Theni.

2.The Tahsildar, Theni.

<https://bc.services.eprints.org/hcservices/>
3.The District Surveyor, Theni.

+1cc to M/S. M.Suresh Kumar, Advocate in SR.No 48298

TE/28.09.2015/2P - 5C AN-MP

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