



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.07.2016

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Writ Petition (MD) No.7352 of 2014

and

M.P(MD)No.1 of 2014

R.Ramesh

... Petitioner

Vs.

1.The District Collector,
Thanjavur District, Thanjavur.

2.The Commissioner, Panchayat Union,
Karaikal Road, Kumbakonam,
Thanjavur District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 2nd respondent forbearing from the constructing the building in the land in Survey No.208/5 situated in Kumarankudi Village Kumbakonam Taluk, Thanjavur District.

For Petitioner : Mr.G.Gomathi Sankar

For Respondents : Mr.Aayiram K.Selvakumar,
Government Advocate.

ORDER

The facts leading to the present writ petition is summarized as follows:-

The petitioner appears to have entered into a sale agreement on 01.03.2012 in respect of a property measuring an extent of 0.05.04 hectares in R.S.No.208/5 in Kumarankudi Village, Kumbakonam Taluk, Thanjavur District. According to the petitioner, he has filed a suit in O.S.No.91 of 2013 on the file of the District Munsif Court, Kumbakonam for specific performance and that the said suit is pending. While so, the second respondent entered into the above said lands and started constructing a building therein as if the second respondent had purchased the said land from one Mahalingam, who is no way connected with the lands. It is also stated that the petitioner has taken steps to join the second respondent in the suit. The petitioner contends that the construction by the second respondent in the land is illegal.



2.From the reading of the affidavit filed in support of this writ petition, this Court is not able to find any reason or cause for the petitioner to connect the suit for specific performance with that of the construction of the second respondent who is not claiming under the defendant in the suit for specific performance. If the petitioner has got any grievance against the second respondent, it may give rise to a separate cause of action for filing an independent suit against the second respondent and he cannot approach this Court under Article 226 of the Constitution for a relief which can be granted by the Civil Court after an elaborate trial.

3.In that view of the matter, the writ petition is dismissed with a liberty to the petitioner to approach the Civil Court for appropriate relief. No costs. Consequently, M.P(MD)No.1 of 2014 is closed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

sms

To

1.The District Collector, Thanjavur District,
Thanjavur.

2.The Commissioner, Panchayat Union,
Karaikal Road,
Kumbakonam, Thanjavur District.

+1CC to M/s.Gomathi Sakar, Advocate Sr.No.40553

GJM/KBM/10.8.16-2P-4C

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