

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.No.23903 of 2017 and
WMP No.25159 of 2017

Chinnapappa

... Petitioner

v.

- 1.The District Collector,
Dharmapuri District,
Dharmapuri.
- 2.The District Revenue Officer,
Dharmapuri District,
Dharmapuri.
- 3.The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District.
- 4.The Block Development Officer,
Nallampalli Panchayat Union,
Nallampalli,
Dharmapuri Taluk and District.
- 5.Madhalingam
- 6.The Inspector of Police,
Adhiyamankottai Police Station,
Dharmapuri District.

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus, directing the respondents herein or their subordinates, agents or any other persons claiming on their behalf from interference and proceedings with the construction in the property of the petitioner comprised in Survey No.297/97, admeasuring an extent of 122 Sq.mt., situate at Mittanoolahalli Village, Dharmapuri Taluk and District, without following the due process of law.

For Petitioner : Mr.C.Prabakaran
For Respondents : Mr.R.Rajeswaran
Spl. Govt. Pleader
for R1 to R4 and R6

O R D E R

The petitioner has filed the above writ petition, to issue a Writ of Mandamus, forbearing the respondents from interfering and proceeding with the construction in the property of the petitioner comprised in Survey No.297/97, admeasuring an extent of 122 Sq.mts., situated at Mittanoolahalli Village, Dharmapuri Taluk and District, without following the due process of law.

2. Mr.C.Prabakaran, learned counsel appearing for the petitioner submits that after the cancellation of patta granted in favour of the petitioner, the respondents are trying to dispossess the petitioner from the land in Survey No.297/97. The learned counsel also submitted that the petitioner has filed a suit in O.S.No.8 of 2016 on the file of the District Munsif Court, Dharmapuri for declaration and permanent injunction and the same is pending. The learned counsel further submitted that the petitioner has also filed an application in I.A.No.47 of 2016 seeking for ad-interim injunction and that the Trial court had ordered notice in that application and has not passed any further orders.

3. Mr.R.Rajeswaran, learned Special Government Pleader appearing for the respondents 1 to 4 and 6, submitted that since the petitioner has filed a civil suit, the remedy open to the petitioner is only to approach the Civil Court and he cannot invoke the writ jurisdiction of this Court.

4. As rightly contended by the learned Special Government Pleader, I am of the view that when the petitioner has filed a civil suit in O.S.No.8 of 2016, the remedy open to the petitioner is only to approach the Civil Court seeking for appropriate relief. Further, the application for injunction in I.A.No.47 of 2016 is also pending before the Trial Court for consideration.

5. The learned counsel appearing for the petitioner submitted that the Trial Court may be directed to dispose of the injunction application in I.A.No.47 of 2016 within a time frame.

6. In view of the submissions made by the learned counsel on either side, I do not find any merit in the writ petition for the reason that the petitioner had already approached the Civil

Court seeking for appropriate relief. That apart, the petitioner has also filed a revision before the District Revenue Officer, challenging the order passed by the Revenue Divisional Officer.

7. In these circumstances, I direct the learned District Munsif, Dharmapuri, to dispose of the application for injunction in I.A.No.47 of 2016 in O.S.No.8 of 2016 on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

8. With these observations, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

- 1.The District Collector,
Dharmapuri District,
Dharmapuri.
- 2.The District Revenue Officer,
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Dharmapuri.
- 3.The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District.
- 4.The Block Development Officer,
Nallampalli Panchayat Union,
Nallampalli,
Dharmapuri Taluk and District.

5.The Inspector of Police,
Adhiyamankottai Police Station,
Dharmapuri District.

6.The District Munsif
Dharmapuri

+1 cc to Mr.C.Prabakaran Advocate sr 63934

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