

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.4771 of 2018

and

WMP.No.5900 of 2018

R.Narayanansamy
S/o.Late K.Rangarajan

.. Petitioner

Vs.

1. The District Collector
Erode District.
2. The Tahsildar
Erode Taluk, Erode District.
3. The Executive Engineer
Tamil Nadu Water Supply and Sewerage Board
No.216, Thirunagar Colony,
Arumugam Street, Erode.
4. The Commissioner
Erode Corporation Office
Erode.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, forbearing the respondents and their subordinates from constructing overhead tank in our Plot Nos.A-64 & A-65, situated at Thindal Village, Erode Taluk, Erode District comprised in S.No.27, R.S.No.99/11, approved by the Government in L.P.R.(C.N.)No.114/82.

For Petitioner: Mr.L.Chandra Kumar
for Mr.M.Mariappan

For Respondents: Mr.R.Govindasamy
Special Government Pleader for R1 & R2

O R D E R

The petitioner seeks for a mandamus to forbear the respondents from constructing overhead tank in Plot Nos.A-64 & A-65, situated at Thindal Village, Erode Taluk, Erode District, comprised in S.No.27, R.S.No.99/11.

2. Heard Mr.L.Chandra Kumar, learned counsel for the petitioner and Mr.R.Govindasamy, learned Special Government Pleader for the respondents 1 and 2.

3. The grievance of the petitioner before this Court is that the respondents are trying to put up construction of overhead water tank in the subject matter property, without following due process of law to acquire the subject matter property, which according to the petitioner, is his private property. The fact remains that the very same petitioner has already approached the District Court, Erode, and filed OS.No.43 of 2015, seeking for permanent injunction restraining the defendants therein from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property, which is one and the same in the present writ petition as well.

4. Perusal of the plaint filed in the said suit would show that the petitioner herein as the plaintiff, has specifically pleaded that the second defendant namely, the Tamil Nadu Water Supply and Drainage Board, who is the third respondent herein, is trying to put up a water plant in the suit property without any authority. Therefore, the subject matter of contest before this Court by way of this writ petition, is already seized of by the Civil Court in the above said suit, where the petitioner has not been granted with any interim injunction, as admitted, by the learned counsel for the petitioner himself.

5. Therefore, it is evident that having failed to obtain any interim injunction before the Civil Court, the petitioner has chosen to file the present writ petition and seek for such relief indirectly, I do not think that the petitioner can maintain both the proceedings parallelly. Accordingly, this writ petition is disposed of, without expressing any view on the merits of the matter, however, granting liberty to the petitioner to agitate the matter before the Civil Court, wherein the suit is pending. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

mk

To

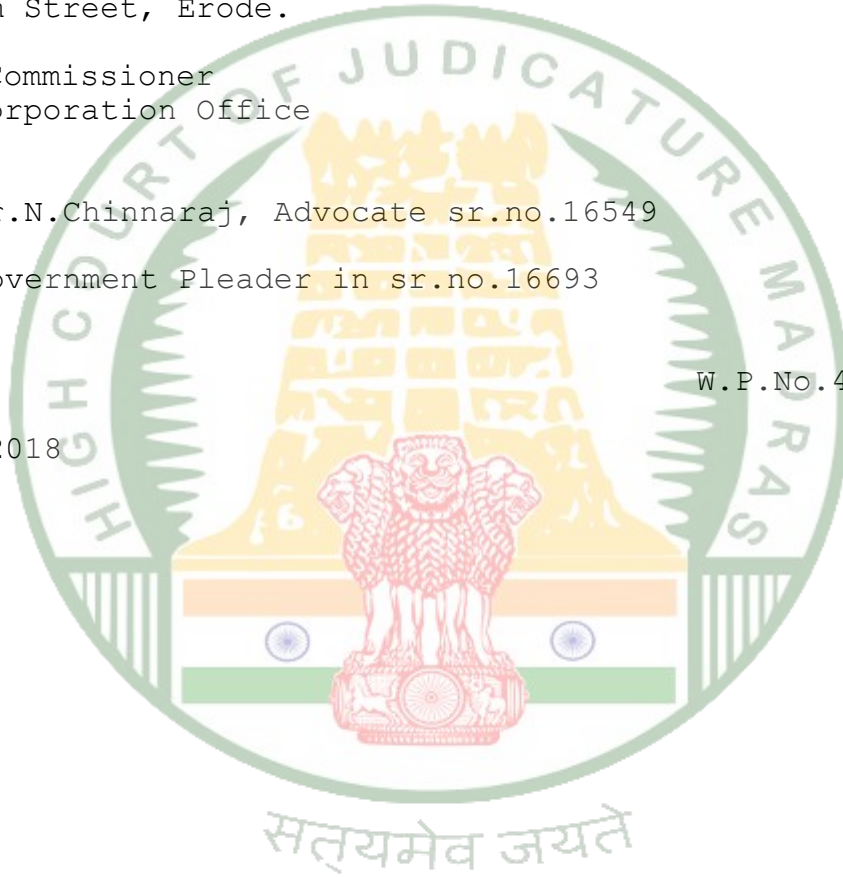
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4. The Commissioner
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Erode.

+1cc to Mr.N.Chinnaraj, Advocate sr.no.16549

+1cc to government Pleader in sr.no.16693

W.P.No.4771 of 2018

nr 20/03/2018



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