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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2019

CORAM :

The Hon'ble Mrs.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P.No.10518 of 2019

M.Balakrishnan

.. Petitioner

-vs-

1.The Executive Officer,
Town Panchayat Office,
Sulur, Coimbatore District-641 402.

2.The Tahsildar,
Sulur Taluk,
Coimbatore District-641 402.

3.P.Eswari

4.K.Annakodi

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari calling for the records relating to impugned order issued by the first respondent in his proceedings in Na.Ka.No.564/2017/E dated 29.03.2019 and his consequential notice in Na.Ka.No.567/2017/E dated 29.03.2019 and quash the same as illegal.

For Petitioner

: Mr.R.Subburaj

For Respondents

: Mr.S.Kamalesh Kannan
Government Advocate
for respondent Nos.1 and 2

Mr.J.Agni Selvaraju
for respondent No.3



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No Appearance
for respondent No.4

ORDER

(Order of the Court was made by M.Duraiswamy, J.)

The petitioner has filed the above writ petition to issue a writ of certiorari calling for the records relating to the impugned order passed by the first respondent dated 26.03.2019 and the consequential notice dated 29.03.2019 and quash the same.

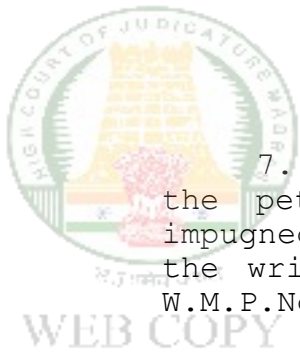
2. It is the case of the petitioner that though the first respondent issued the notice on 26.03.2019, the same was served on him on 28.03.2019 and the impugned order was passed on 29.03.2019 cancelling the planning permission granted to him.

3. The learned counsel for the petitioner submitted that the third respondent is claiming right over the land in dispute and therefore, the petitioner has filed a civil suit in O.S.No.655 of 2019 before the III Additional Sub Court, Coimbatore for declaration and permanent injunction and the same is pending.

4. The first respondent has passed the impugned order on the ground that the petitioner had encroached into the land which does not belong to him and therefore, the planning permission granted to him was cancelled. While passing the impugned order, the first respondent has also recorded that the petitioner was served with notices dated 16.11.2018, 20.11.2018 and 26.11.2018 respectively and in spite of receiving the same, the petitioner has not given any explanation to the said notices.

5. It is brought to the notice of this Court that the third respondent has filed writ petition in W.P.No.31512 of 2017 and a Division Bench of this Court, by an order dated 05.12.2017, disposed of the writ petition directing the Tahsildar, Suler Taluk, to act on the Memorandum dated 04.07.2017 sent by the District Collector, Coimbatore, after putting the petitioner herein on notice. It is also brought to the notice of this Court that thereafter, the third respondent has filed Contempt Petition No.1448 of 2018 and the same is also pending.

6. The learned counsel for the petitioner submitted that since the petitioner has filed the civil suit, the petitioner would agitate the issues involved in the present writ petition, including the title of the property in dispute, in the said suit.



7. In view of the submission made by the learned counsel for the petitioner, we are not inclined to interfere with the impugned order passed by the first respondent. Accordingly, the writ petition is disposed of. No costs. Consequently, W.M.P.No.11020 of 2019 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

1.The Executive Officer,
Town Panchayat Office,
Sulur, Coimbatore District-641 402.

2.The Tahsildar,
Sulur Taluk,
Coimbatore District-641 402.

+1cc to Mr.R.Subburaj, Advocate, S.R.No.65864
+1cc to Mr.J.Agni Selvaraju, Advocate, S.R.No.66058
+1cc to the Government Pleader, S.R.No.66354

W.P.No.10518 of 2019

AP(CO)
SP(29/08/2019)