



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2019

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P. (MD)No.7810 of 2016

S.Mohammed Hanifa

... Petitioner

/Vs./

- 1.The District Collector,
Collectorate, Dindigul.
- 2.The Assistant Director of Panchayats,
District Collectorate Building, Dindigul.
- 3.The Block Development Officer, (Village Panchayats),
Natham Panchayat Union,
Natham Taluk, Dindigul District.
- 4.The President,
Kudakipatti Village Panchayat,
Natham Panchayat Union, Kudakipatti.

5.S.Abdul Wahab @ Taj

... Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 3rd and 4th respondents to implement the proceedings of the 3rd respondent dated 03.11.2015 in Na.Ka.No.313/2015/Thi2 and thereby cancel the House tax assessment No.1900 in Door No.9/399, in respect of the property in Survey No.249/8A1, Kudakipatti Village, Natham Taluk, Dindigul District.

For Petitioner : Mr.H.Lakshmi Shankar

For R-1 & R-2 : Mr.R.Murugan
Additional Government Pleader

For R-3 & R-4 : Mr.M.Rajarajan
Government Advocate

For R-5 : Mr.T.C.S.Thillainayagam

**ORDER**

The limited prayer sought for by the petitioner in this matter is for implementation of the proceedings of the third respondent dated 03.11.2015 by the 3rd and 4th respondents. The petitioner and the 5th respondent are brothers. Property in Survey No.249/8A1, Kudakipatti Village, Natham Taluk, Dindigul District, belonged to their father and devolved after his demise, by partition, upon all the legal heirs.

2. The allegation of the petitioner is that the fifth respondent, in the guise of putting up temporary structure, had infact constructed a structure on a common pathway and had also obtained a house tax assessment for the said structure by misrepresenting the same as though the structure was put up on his share of the land. Upon an objection being raised by the petitioner before the 2nd respondent, a direction was issued by the second respondent/Assistant Director of Panchayats, Dindigul, to the third respondent/Block Development Officer, Natham Taluk, Dindigul District, to take suitable action upon the representation.

3. The third respondent thereafter conducted an enquiry and appears to have found that the structure put up by the 5th respondent covers a common pathway and the common Kalathadi. He also finds that the property infact is a coconut grove and thus, house tax assessment in that regard itself is not appropriate. Thus, by order dated 03.11.2015, the 4th respondent was directed to cancel the house tax assessment in the name of the fifth respondent. This Writ Petition is filed, seeking a direction to the 4th respondent to implement order passed on 03.11.2015.

4. It is the case of the petitioner that the 4th respondent and the 5th respondent are in collusion and it is hence that the proceedings dated 03.11.2015 have not been implemented.

5. No counter has been filed by any of the respondents before me. Orally, learned counsel for the 5th respondent states that the property upon which the structure has been constructed is his own property. However, it is seen that prior to the proceedings dated 03.11.2015, a communication was sent by the 4th respondent to the petitioner wherein the former appears to have considered the representation made by the petitioner before him to the effect that the construction has been effected by him on his own property. It thus appears that both the parties, the petitioner as well as R-5, have made representations before R-3 and R-4 making contrary assertions in regard to the property constructed.

6. It was thus incumbent on the third respondent/Block Development Officer, Natham Taluk, Dindigul District, to have caused an inspection in the presence of both the petitioner as well as R-5



before coming to a decision one way or the other. This has not been done. Proceedings dated 03.11.2015 are also not in challenge.

7. A show cause notice has been issued by the 4th respondent and the 5th respondent, is yet to reply to the same. In the interests of all parties, the following directions are issued:

(i) 5th respondent is permitted to file a reply to the showcause notice dated 04.01.2016, within a period of two weeks from today.

(ii) After hearing the petitioner as well as the 5th respondent, and causing independent enquiry into the location of the construction in question, an order shall be passed by the 4th respondent/appropriate officer in respect of the House tax assessment No.1900, of property at Door No.9/399, Survey No.249/8A1, Kudakipatti Village, Natham Taluk, Dindigul District, within a period of four weeks from the date of conclusion of personal hearing. This Writ Petition is disposed in the above terms. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The District Collector, Collectorate, Dindigul.

2.The Assistant Director of Panchayats,
District Collectorate Building, Dindigul.

3.The Block Development Officer, (Village Panchayats),
Natham Panchayat Union, Natham Taluk, Dindigul District.

4.The President,
Kudakipatti Village Panchayat,
Natham Panchayat Union, Kudakipatti.

+1 CC to M/s.H.LAKSHMI SHANKAR, Advocate (SR-80213[F] dt.07/08/2019

+1 CC to M/s.SPL GP (SR-80398[F] dated 07/08/2019)

Order made in
W.P.(MD)No.7810 of 2016
Dated: 06.08.2019

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JMN(10.09.2019) 3P : 7C

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