

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 15.05.2020

CORAM:

THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.7651 of 2020

Palaniammal

... Petitioner

Vs.

1.The Secretary
to the State Government of Tamil Nadu,
Revenue Department,
Secretariat, Chennai – 600 009.

2.The District Collector,
Office of the District Collector,
Dharmapuri District – 636 705.

3.The Sub Collector,
Revenue Divisional Office, Harur – 636 903.

4.The Tahsildar,
Pappireddipatti,
Dharmapuri District – 636 705.

... Respondents

Petition filed under Article 226 of the Constitution of India for issuance of a Writ of mandamus directing the 2nd, 3rd and 4th respondents to restore the original position prevailed in Survey No.35/3A, Bothakadu Village, Bairnatham Post, Pappireddipatti Taluk, Dharmapuri – 636 905 as on 06.05.2020 by declaring their unlawful action of acquiring of land from petitioner without following any procedure of law during pendency of suit proceedings as null and void ab-initio.

For Petitioner : Mr.B.Eswaran
for M/s.Swaraj Associates

For Respondents : Mr.V.Kathirvelu,
Special Government Pleader

ORDER

The petitioner has filed the above Writ Petition to issue a Writ of Mandamus directing the respondents 2 to 4 to restore the original position prevailed in Survey No.35/3A, Bothakadu Village, Bairnatham Post, Pappireddipatti Taluk, Dharmapuri – 636 905 as on 06.05.2020 by declaring their unlawful action of acquiring the land from petitioner without following any procedure of law during pendency of suit proceedings as null and void ab-initio.

2.Admittedly, the suits between the petitioner and the respondents in O.S.No.176 of 2018 on the file of the District Munsif Court, Pappireddipatti and another suit in O.S.No.1 of 2018, filed by private parties, who are the defendants 1 to 3 in O.S.No.176 of 2018 also on the file of the District Munsif Court, Pappireddipatti, are pending.

3. On a perusal of the plaint filed by the petitioner in O.S.No.176 of 2018, it is clear that the petitioner has sought for declaration of title and permanent injunction, in respect of the property in dispute, restraining the defendants therein, which includes the respondents 2 to 4 also, from interfering with the suit property. When the Civil Suits are pending in respect of the property in Survey No.35/3A, the Writ Petition filed by the petitioner seeking for mandamus, cannot be entertained. In these circumstances, I am not inclined to entertain the Writ Petition. Accordingly, the Writ Petition is dismissed. However, it is open to the petitioner to move the Civil Court in the pending proceedings (i.e.) O.S.Nos.176 of 2018 and 1 of 2018, seeking for appropriate relief. No costs.

सत्यमेव जयते

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Index: Yes/No
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15.05.2020

M.DURAISWAMY, J.

va

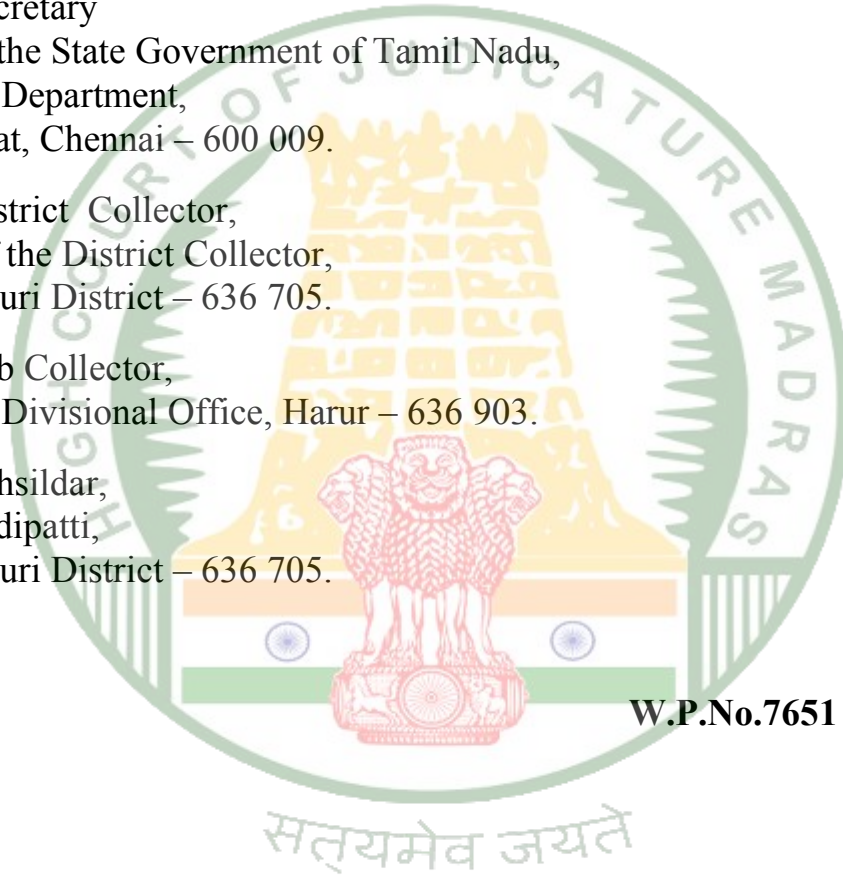
To

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