



WEB COPY

W.A(MD)No.1104 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.A(MD)No.1104 of 2020

and

C.M.P (MD)No.6045 of 2020

Jesintha

... Appellant/ 3rd Party

Vs.

1.Sudhakar

... 1st respondent / Petitioner

2.The District Collector,
Ramanathapuram District,
Ramanathapuram.

3.The Block Development Officer,
Thiruvadanai,
Ramanathapuram District.

4.The Tahsildar,
Thiruvadanai Taluk,
Ramanathapuram District.

5.The Panchayat President,
Karumazhi Village Panchyat,
Thiruvadanai Taluk,
Ramanathapuram District.

... Respondents 2 to 5 /
Respondents 1 to 4

PRAYER: The Writ Appeal is filed under Clause 15 of Letters Patent, to call for the records in W.P.(MD)No.11257 of 2020 and set aside the order, dated 14.09.2020 by allowing this Writ Appeal.

Prayer in WP(MD). 11257/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the 5th respondents to assign House Tax to petitioner's house in S.No. 37/4B2 of Kovani Village, Karumozhi Panchayath, Thiruvadanai Tk, Ramanathapuram District based on petitioners representation dt. 28.07.2020 and the proceedings of the 2nd respondent in Na.Ka.Oo. Ni.No.3/1821/2020 dt. 06.08.2020.



For Appellants : Mr.A.Haja Mohideen
For Respondent : Mr.S.Bala Karthick
No.1
For Respondent : Mr.M.Muthugeethaiyan,
Nos.2 to 5 Special Government Pleader

WEB COPY

JUDGMENT

[Judgment of the Court was delivered by **B.PUGALENDHI, J.**]

This writ appeal is filed by a 3rd party to the writ petition as against the order of the learned Single Judge, in W.P(MD)No.11257 of 2020, dated 14.09.2020. The said writ petition was filed by the 1st respondent herein, for a writ of mandamus, directing the 5th respondent Panchayat President, Karumazhali Village Panchayat to assign house tax to his house in Survey No.37/4B2 of Kovani Village, Karumozhi Panchayat, Thiruvadanai Taluk, Ramanathapuram District.

2.The writ petition in W.P(MD)No.11257 of 2020 was dismissed by the learned Single Judge, by order dated 14.09.2020, in the following terms:

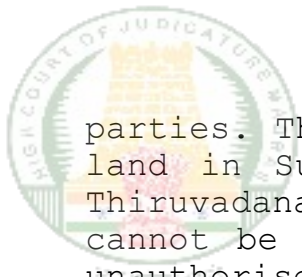
" 3.The learned Government Advocate points out that the construction appears to have been put up without approval and that therefore, the fifth respondent is not in a position to assess the same to house tax.

4.The Objection of the learned Government Advocate is truly strong. In normal circumstances, I would have dismissed the writ petition. But the learned Counsel for the petitioner points out that the petitioner is working in CRPF. His mother also appears to be having some psychiatric issues.

5.Therefore, taking note of these extraordinary circumstances, I direct the 5th respondent to assess the property to house tax. The writ petition is allowed. The petitioner shall execute an idemnitty bond in favour of the Local Panchayat, so that the Panchayat is not made to answer any claim in future. No costs."

3.Aggrieved over the above order, the appellant/ 3rd party filed this writ appeal, after filing a petition in C.M.P(MD)No.4941 of 2020 seeking permission to file this writ appeal and the same allowed by this Court on 18.11.2020.

4.This writ appeal is filed by the appellant on the ground that the writ petition has been filed by suppressing the dispute between the appellant and the 1st respondent, the legal notice, dated 20.07.2020 issued by the appellant and the suit pending between the



parties. The other ground raised in this appeal is that the subject land in Survey No.37/4B2 at Kovani Village, Karumozhi Panchayat, Thiruvadanai Taluk, Ramanathapuram District is Nanja land and there cannot be any construction of house and assessment of tax for the unauthorised construction.

WEB COPY

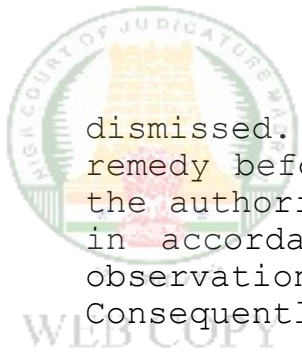
5. Heard Mr.A.Haja Mohideen, learned Counsel appearing for the petitioner, Mr.S.Bala Karthick, learned Counsel appearing for the 1st respondent and Mr.M.Muthugeethaiyan, learned Special Government Pleader appearing for respondents 2 to 5.

6. It is seen from the typed set of papers that the appellant has issued a legal notice, dated 20.07.2020 to the District Collector, Ramanathapuram District and the Block Development Officer on 20.07.2020 that the Survey No.37 /4B2, claiming that the property in Survey No.37/4B2, is her inherited property, for which, patta has been wrongly obtained by one Arputham and the 1st respondent is constructing an unauthorised construction without changing the classification and without a planning permission. The appellant also filed a suit as against Arputham and others before the District Munisif, Thiruvadanai for a partition and for declaration of certain deeds, which is yet to be numbered.

7. A perusal of the records would show that on the very same relief, this appellant's husband Antony Samy has approached this Court in W.P(MD)No.6827 of 2020 for a writ of mandamus, directing the District Collector, Ramanathapuram and the Block Development Officer, Thiruvadanai and others, to remove the unauthorised construction put up by the 1st respondent and his wife in Survey No.37/4B2A and 37/4B2B at Kovani Village, Karumozhi Panchayat, Thiruvadanai Taluk. Though the said writ petition was filed as a Public Interest Litigation, considering the submissions made in the above writ petition, this Court by order, dated 24.06.2020, dismissed the said writ petition that there is no public interest involved in that writ petition. After this attempt by her husband, another attempt has been made by way of a legal notice, dated 20.07.2020 and then by way of this writ appeal.

8. Admittedly, patta has been issued in the name of one Arputham and the first respondent, her son-in-law and they have put up construction therein. Even if it is nanja land, a farm house can be constructed without any change of classification and the appellant has also filed a civil suit, which is yet to be numbered. If she is aggrieved with the issuance of the patta, she has to work out her remedy, before the appropriate forum, in the manner known to law and the issue cannot be decided in the writ proceedings.

9. In view of the earlier order, dated 24.06.2020 passed by this Court in W.P(MD)No.6827 of 2020, this Court is not inclined to entertain this writ appeal and accordingly, this writ appeal is



dismissed. However, it is open to the appellant to work out her remedy before the appropriate forum in the manner known to law and the authority concerned shall decide the issue on its own merits and in accordance with law, without being influenced by any of the observations made by this Court in this judgment. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dsk

To

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The Block Development Officer,
Thiruvadanai,
Ramanathapuram District.
- 3.The Tahsildar,
Thiruvadanai Taluk,
Ramanathapuram District.
- 4.The Panchayat President,
Karumazhi Village Panchyat,
Thiruvadanai Taluk,
Ramanathapuram District

W.A(MD)No.1104 of 2020
21.12.2020

KUN(CO)

KB(09.07.2021) 4P 5C