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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.2213 of 2014 & Cont.P.1298 of 2015
& MP Nos.1 of 2014 and 1 of 2015
& WMP Nos.6338 & 6339 of 2018

W.P.No.2213 of 2014

Mr.K.Sundarajan

..Petitioner

Vs

1. The District Collector,
Collectorate, Villupuram District.

2. The Block Development Officer,
Panchayat Union,
Melmalaynoor, Gingee Taluk,
Villupuram District.

3. The President,
Vallathi Panchayat,
Vallathi Post, Gingee Taluk,
Villupuram District.

4. The Inspector of Police,
Vallathi Police Station,
Vallathi Post, Gingee Taluk,
Villupuram District.

5.Mr.Kannan

6.Mr.Pichanandi

7.The Revenue Divisional Officer,
Vallathi Panchayat,
Vallathi Post, Gingee Taluk,
Villupuram District.

...Respondents

(R4 to R6 impleaded as per order
dated 10.09.2014 in
MP.No.2 of 2014 in W.P.No.2213 of 2014
and R7 impleaded as per the order of
this Court dated 30.04.2021 in W.P.2213/2014).



Cont.P.1298 of 2015

Mr.K.Sundarajan

Vs.

...petitioner

1. Tmt.Lakshmi., IAS,
The District Collector,
Collectorate, Villupuram District.

2. Venkatesan,
The Block Development Officer,
Panchayat Union,
Melmalaynoor, Gingee Taluk,
Villupuram District.

3. K.P.Balakrishnan,
The President,
Vallathi Panchayat,
Vallathi Post, Gingee Taluk,
Villupuram District.

4. Rathina Sabapathi,
The Inspector of Police,
Vallathi Police Station,
Vallathi Post, Gingee Taluk,
Villupuram District.

5.Mr.Kannan

6.Mr.Pichanandi

...Respondents

Prayer in W.P.No.2213 of 2014:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the first and the second respondents to dispose of the petitioner's representation dated 19.12.2013 on merits, within the time stipulated by this Court.

Prayer in Cont.P.No.1298 of 2015: Contempt Petition filed under Section 11 of the Contempt of Courts Act, to punish the respondents herein for their wilful disobedience and non-compliance of the order passed by this Hon'ble Court made in M.P.No.1 of 2014 in W.P.No.2213 of 2014, dated 10.09.2014.

For Petitioner : Ms.D.Malarvizhi.

For Respondents : Mr.D.Suryanarayanan, GA for RR1, 3 & 4
Ms.A.Srijayanthi for R2
Mr.H.Mohanraj for RR5 & 6.



ORDER

Writ Petition has been filed seeking for issuance of a Writ of Mandamus, directing the first and the second respondents to dispose of the petitioner's representation dated 19.12.2013, within the time frame to be stipulated by this Court.

2. The case of the petitioner is that the petitioner is the owner of the property comprised in New S.Nos.496/9B2(Old S.No.496/9A) which was originally belonging to the petitioner's grandfather Lakshmanan Naiker. There was some dispute and the same was settled between the parties and the petitioner was lawfully enjoying the said property. Thereafter, the fifth and the sixth respondents had purchased the property in respect of S.No.496/9B1 measuring to an extent of 540 sq.feet in the year 2004. In the meanwhile, IAY Scheme was announced by the Central Government and as per the said Scheme, the person owning the land in his name, is entitled to approach the respondents for grant of scheme benefits of sanctioning the amount of Rs.1,20,000/- to the person and for this purpose, to approach the third respondent for selection of beneficiary. Under the said scheme, the fifth and the sixth respondents claimed as beneficiaries and the allotment of the funds were also sanctioned to the fifth and the sixth respondents. The grievance of the petitioner is that the fifth and sixth respondents were attempting to construct the building in the petitioner's land comprised in S.Nos.496/9B2(Old S.No.496/9A). Therefore, raising objections, the petitioner made a representation dated 19.12.2013 to the respondents and prayed not to allot the funds. But the said representation was not considered by the authorities. Hence, the present Writ Petition.

3.At the time of admitting the Writ Petition, this Court granted status-quo. Subsequently, the petitioner has also filed a petition to amend the prayer in the Writ Petition to measure and survey and identify the petitioner's land in respect of S.No.496/9A, New S.No.496/9B2.

4.According to the learned counsel appearing for the respondents, the fifth and the sixth respondents submitted an application and funds have been sanctioned by the respondents and due to the personal reasons, the petitioner has made such objections to the authorities. Therefore, he seeks to vacate the interim order and enable the fifth and sixth respondents to complete the construction work of the building. He submitted that taking note of the fact that the prayer as sought in the Writ Petition is in limited scope and also considering the aforesaid fact that the Writ Petitioner who disputed with the fifth and the sixth respondents has approached the authorities



not to grant funds for construction of the building under the above said Scheme.

5. According to the petitioner, as submitted above, the fifth and sixth respondents commenced construction of the building in the his land comprised in S.No.496/9B2. It is the grievance of the petitioner that the fifth and the sixth respondents without measuring and identifying the property, have made an attempt to construct the building in the petitioner's land since the petitioner had acquired the land by inheritance. Therefore, the said funds for the construction of the house building is not in the petitioner's property in S.No.496/9B2, the Writ Petitioner have no objections. Unless the properties of both the properties are demarcated, the dispute among the parties concerned will not be resolved. For this purpose, petitioner has to make an appropriate application before the authority concerned seeking for demarcation of the property concerned and thereafter, a decision will be taken by the appellate authority to resolve the dispute among the parties.

6. Considering the aforesaid facts and circumstances and the objections of the petitioner, this Court is inclined to direct the petitioner to file an appeal before the appellate authority concerned under the Patta Pass Book Act within a period of two weeks from the date of receipt of a copy of this order.

7. This Court *suo-motu* impleads the Revenue Divisional Officer, Vallathi Panchayat, Gingee Taluk, Villupuram District as the seventh respondent. If such an appeal is being filed within the aforesaid period, the Revenue Divisional Officer/seventh respondent is directed to serve notice on the Writ Petitioner as well as on the respondent nos.5 & 6 for submitting their response/objections.

8. The Writ Petition is of the year 2014. Therefore, this Court is of the view that both the parties are aggrieved. The learned counsel for the respondents informed to this Court that the fifth and the sixth respondents suffered for more than 7 years since building funds were not utilised for construction in their property. Therefore, he also seeks early disposal of the appeal by the appellate authority. Otherwise, much hardship will be caused to the fifth and the six respondents.

9. Considering the aforesaid fact, this Court is inclined to pass the following order:

(i) The petitioner is directed to submit an appeal petition before the seventh respondent/RDO within a period of two weeks from the date of receipt of a copy of this order,



(ii) On receipt of such appeal petition, the seventh respondent is directed to pass appropriate orders after providing an opportunity of personal hearing to the petitioner as well as the fifth and the sixth respondents for submitting their explanations/objections and also the additional particulars before the appropriate authority and the fifth and the sixth respondents shall co-operate with the Appellate Authority for speedy disposal of the appeal. It is also open to the petitioner to make an appropriate application before the authority concerned or to the seventh respondent/RDO for appropriate direction to measure the property and for demarcation of the property with the assistance of the Surveyor for arriving at appropriate decision in the appeal.

10. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

11. In view of the orders passed in the Writ Petition, the Cont.P.No.1298 of 2015 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Collectorate, Villupuram District.
2. The Block Development Officer,
Panchayat Union,
Melmalaynoor, Gingee Taluk,
Villupuram District.
3. The President,
Vallathi Panchayat,
Vallathi Post, Gingee Taluk,
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4. The Inspector of Police,
Vallathi Police Station,
Vallathi Post, Gingee Taluk,
Villupuram District.



5. The Revenue Divisional Officer,
Vallathi Panchayat,
Vallathi Post, Gingee Taluk,
Villupuram District.

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+1cc to Mr.H.Mohanraj, Advocate, S.R.No.26564

W.P.No.2213 of 2014
& Cont.P.No.1298 of 2015

LN (CO)
RGA (26/07/2021)