



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 10.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE **V.PARTHIBAN**

W.P. (MD)No.2322 of 2021

M.Rangasamy

... Petitioner

- Vs -

1.The District Collector,
Pudukkottai District,
Pudukkottai.

2.The Tahsildar,
Taluk Office,
Karambaikudi Taluk,
Pudukkottai District.

3.The Block Development Officer (Village Panchayat),
Panchayat Union Office,
Karambaikudi,
Pudukkottai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus forbearing the respondents, their men, servants and agents from in any way disturbing the peaceful possession and enjoyment of the property i.e., Tar house situated at Karambakudi Taluk, Pudukkottai District comprised in Karambaviduthi Revenue Village Natham Land Survey No.32/7, to an extent of 00010 sq. mtr. and Survey No.32/11 to an extent of 32.11 Sq. Mtr. till the disposal of the Suit in O.S.No.270 of 2019 pending on the file of the learned Principal Subordinate Court, Pudukkottai and pass orders on the petitioner's representation dated 04.01.2021.

For Petitioner

: Mr.K.Sankar

For Respondents

: Mr.M.Thilagar

Government Advocate

ORDER

The case of the petitioner is that the petitioner is residing in Survey No.32/9 measuring to an extent of 0.00.54 ares of land. His father was originally paying the tax payable to the property and after his lifetime, the petitioner has been paying the same and also obtained electricity connection in his name. According to the petitioner, he along with his brothers have been in possession and enjoyment of the property without any hindrance.



2.While so, the adjacent owners of their property have started interfering with the possession of the petitioner and in order to prevent them from interfering with their right to enjoy the property, a suit was filed in O.S.No.270 of 2019 for declaration and permanent injunction. According to the petitioner, the suit is pending adjudication as on date.

3.The further case of the petitioner is that one Sivakumar, who is a resident of the Village had got wrong entries made in the revenue records, had approached this Court in W.P.(MD)No.16927 of 2019 seeking issue of Writ of Mandamus directing the respondents therein to remove the illegal encroachments of the private respondents in the Writ Petition in a Government proramboke lands. This Court disposed of the Writ Petition on 31.07.2019 directing the official respondents to take action in the matter. According to the petitioner, that Writ Petition was filed with forged documents and obtained a direction.

4.The petitioner herein, apprehending interference, is now before this Court with a prayer as stated supra.

5.This Court is unable to appreciate as to how the prayer like this is maintainable before this Court when the proper remedy for the petitioner is to approach the Civil Court for such relief. In fact, the petitioner himself has averred that the suit is pending in O.S.No.270 of 2019 before the competent Civil Court and when the Civil case is pending, the filing of the present Writ Petition would amount to gross abuse of process of Court.

6.In any case, this Court is of the view that such prayer of the petitioner under no circumstances can be entertained as the relief that is prayed for falls entirely within the civil jurisdiction of the common law remedy and not before Writ jurisdiction of this Court under Article 226 of the Constitution of India. When there are factual disputes as to the title of the property, the proper remedies to be availed only before the Civil Court and not before the Writ Court. In the said circumstances, this Court is of the view that the Writ Petition is not maintainable.

7.Therefore, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



To

1.The District Collector,
Pudukkottai District,
Pudukkottai.

2.The Tahsildar,
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Karambaikudi Taluk,
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3.The Block Development Officer (Village Panchayat),
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Karambaikudi,
Pudukkottai District.

+1 CC to SPL GP (SR-4628[F] dated 11/02/2021)

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VB (22.02.2021) 3P 5C