



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.11.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) .No.13594 of 2021

and

W.M.P (MD) Nos.10534, 10535 and 16670 of 2021

WEB COPY

Subramani @ Ganesan

... Petitioner

Vs.

1.The Block Development Officer,
Thanthoni Panchayat Union,
Karur District.

2.The President,
Eamur Village Panchayat,
Karur District.

3.K.Panneer Selvam

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the first respondent vide his proceedings in Na.Ka.No.Aa4/2030/2020, dated 19.07.2021 and quash the same as illegal.

For Petitioner	: Mr.I.Velpradeep
For R-1 and R-2	: Mr.S.Shanmugavel
	Additional Government Pleader
For R-3	: Mr.N.Shanmugaselvam

ORDER

A civil suit in O.S.No.600 of 2020 had been instituted by the petitioner herein along with two others as against his father and other defendants before the District Court at Karur, seeking partition and separate possession of the property and the said property is also the subject matter of the dispute in the present Writ Petition. The suit for partition is still pending. Naturally, the plaintiff's share has not been demarcated into metes and bounds. The plaintiff may claim that he has a particular share in the property but it is only an undivided share.

2.The third respondent herein claims that he had purchased a portion of the suit property. The petitioner herein had apparently given a representation to the District Collector of Karur District seeking to put up a cowshed in the portion of the property which is the subject matter of the litigation in the suit. Permission was granted and the petitioner put up the cowshed. This has been objected particularly by the third respondent and learned counsel states that the cowshed has been put up in the portion which he had purchased and that the cowshed is right in the middle



of the property and not in any corner of the property.

3.The first respondent appears to have passed an impugned order dated 19.07.2021 directing the petitioner to remove the cowshed. Learned counsel for the petitioner is not able to satisfy this Court as to whether the pendency of the suit was disclosed to the District Collector prior to obtaining permission to put up the cowshed. The property which was under litigation should have been brought to the knowledge of the District Collector before such permission was either sought or before a decision was taken by the District Collector to grant such permission. Therefore, I am not prepared to interfere with the order of the first respondent.

4.However, the petitioner may approach the civil Court where he is one of the plaintiffs and seek necessary relief from the particular Court with respect to the method in which he wants to enjoy the property and also produce a rough sketch of the entire lay of the land and the particular area where he wants to put up the cowshed. The manner in which the petitioner wants to enjoy the lands should be subject to any objections raised by the defendants therein since they are all interested either as shareholders or as purchasers or as persons having interest over the land and thereafter the learned judge can pass necessary orders. Therefore, the order directing the petitioner to remove the fabrication works put up by him, is only proper and I find no reason to interfere with the same.

5.Learned counsel for the petitioner expressed grievance that the petitioner had incurred expenses, owing to the fact that he had put up the cowshed. If he is able to satisfy the particular Court where the trial is to take place, on *bona fide* grounds he had obtained permission and has suffered such expenses then at the time when order of partition and separate possession is granted, and moiety is calculated by the learned District Judge then these expenses may be put forth by the petitioner to be adjusted in the course of passing the final judgment. This depends on *bona fide* being established by the petitioner. Hence, the order of the first respondent is upheld.

6.With the above observations, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

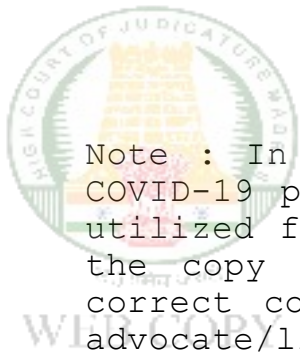
Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Lm/Nsr



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Block Development Officer,
Thanthoni Panchayat Union,
Karur District.

+1 CC to M/s.SPL GP (SR-34962[F] dated 18/11/2021)

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RS (02.12.2021) 3P 3C