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W.P.No.4791 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

Writ Petition No.4791 of 2018

K.Palanisamy

.. Petitioner

Vs.

1.The District Collector
Office of the District Collector
Dharmapuri – 636 705.

2.The Assistant Director
Regional Office for Municipality
Office of the District Collector
Dharmapuri – 636 705.

3.The Executive Officer
Kambainallur Municipality
Kambainallur Via
Dharmapuri Taluk and District.

4.Sekar

5.Panner

6.Viji

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7.Muniappan

8.Anandakumar

9.Ramesh

10.Natarajan

11.Saravanan

12.Sakthivel

13.Rajendiran

(R13 cause title amended vide order
dated 13.10.2022 made in W.M.P.No.19847
of 2021 in W.P.No.4791 of 2018)

14.Manickam

15.Asokan

16.Selvaraj

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the 3rd respondent to demolish the illegal construction made by the respondents 4 to 16 in lands in S.F.No.32/3 in Vendharpatti Revenue village and as per Sections in 56(2a) and 57 of the Tamil Nadu Town Planning Act, 1971 and in accordance with law.

For Petitioner : Mr.G.Munuraj

For R1 to R3 : Mr.A.Selvendran
Special Government Pleader



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For R4, R8 & R11 : Ms.Rajeswari Karthikeyan

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ORDER

(Order of the Court was delivered by V.M.VELUMANI,J.)

This Writ Petition is filed for issuance of a Writ of Mandamus directing the 3rd respondent to demolish the illegal construction made by the respondents 4 to 16 in S.F.No.32/3 in Vendharmpatti Revenue village and as per Sections in 56(2a) and 57 of the Tamil Nadu Town Planning Act, 1971 and in accordance with law.

2.According to the petitioner, the property in question is classified as punja land belonging to his grand father Putta Gounder and he traced title of his grand father by giving details of transaction. The petitioner's grand father permitted one Chinnasamy and his son Rajendran to occupy 15 cents in the said property. They have illegally obtained patta by sub-dividing the property and filed O.S.No.467 of 1994. The said suit was dismissed for default. After death of his grand father, his father Kullappan filed O.S.No.11 of 1995 on the file of the District Munsif Court, Harur, for declaration of title and the said suit was decreed by the judgment and decree dated 30.08.2018. Against the



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said judgment and decree, A.S.No.44 of 2018 was filed on the file of the Sub Court, Harur and the same is pending. After the death of grand father and father, the petitioner is in possession and enjoyment of the property. While so, the respondents 4 to 16 herein, who are the legal heirs of Chinnasamy and Venkattan, constructed residential houses in the property, without any permission from the authorities. Hence, the petitioner sent representation dated 15.12.2018 to the respondents 1 to 3 to take steps to remove the unauthorised construction. Since no action has been taken up by them, the petitioner has come out with the present writ petition.

3.Ms.Rajeswari Karthikeyan, the learned counsel appearing for the respondents 4, 8 and 11 submitted that she has handed over the bundle to the parties and is not appearing for the respondents 4, 8 and 11.

4.Mr.A.Selvendran, the learned Special Government Pleader appearing for the respondents 1 to 3 submitted that the 3rd respondent will inspect the site in question and if there is any unauthorised construction, they will take action as per the provisions of the Tamil Nadu District Municipalities Act,



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after giving opportunity to the petitioner as well as the respondents 4 to 16.

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5.Considering the above submissions made by the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondents 1 to 3, nature of relief sought for in the present Writ Petition and that the respondents 4 to 16 have constructed residential houses in the unapproved lay out, the 3rd respondent is directed to inspect the property in question, after issuing notice to the petitioner as well as the respondents 4 to 16, within a period of three weeks from the date of receipt of a copy of this order. If any unauthorised construction is found, the 3rd respondent is directed to take appropriate action as per the provisions of the Tamil Nadu District Municipalities Act and in accordance with law.

6.With the above directions, the writ petition is disposed of. No costs.

(V.M.V., J) (R.H., J)
09.12.2022

Index : Yes / No
Internet : Yes / No
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V.M.VELUMANI, J.
and
R.HEMALATHA, J.

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To

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