

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.12650 of 2022

P.Moorthi

...Petitioner

Vs.

1. The District Collector,
The District Collector Office,
Tiruppur District.
2. The Regional Block Development Officer,
(Village Panchayats),
Village Panchayats Union Office,
Kangeyam,Tiruppur District.
3. The President,
Pazhayakottai Village Panchayat,
Pazhayakottai Village,
Kangeyam Taluk,
Tiruppur District.
4. S.Arjuna Sivakumar
(R4 impleaded vide order dated 22.06.2022
made in WMP.13903/2022 in W.P.12650/2022)

...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the third respondent from taking any action with pursuant to the notice dated 14.03.2022 in respect of the petitioner's property situated at S.F.No.446/2B2A, S.F.No.446/2B2B, Old S.F. No.201, Kuttampalayam, Palayakottai Village and Panchayat, Kangeyam Taluk, Tiruppur District.

For Petitioner : Mr.B.Mohan

For Respondent : Mr.K.V.Sajeev Kumar, SGP
Nos.1 to 3

For Respondent : Mr.Venkadesh Kumar
No.4

O R D E R
(Order of the Court was made by T.RAJA , J.)

Mr.P.Moorthi, S/o.Palani, a resident of 183 East Semalaivalasu, Kuttapalayam, Kangeyam Taluk, Tiruppur District has again visited this Court with this Writ Petition for issuance of a Writ of Mandamus to forbear the President, Pazhayakottai Village Panchayat, Pazhayakottai Village, Kangeyam Taluk, Tiruppur District from taking any action pursuant to the notice dated 14.03.2022 in respect of the petitioner's property situated at S.F.No.446/2B2A, S.F.No.446/2B2B, Old S.F.No.201, Kuttampalayam, Palayakottai Village and Panchayat, Kangeyam Taluk, Tiruppur District.

2. Heard the learned counsel for the parties.

3.Learned counsel appearing on behalf of the petitioner would submit that being the owner of the land covered in S.F.No.446/2B2A, S.F.No.446/2B2B, Old S.F.No.201, Kuttampalayam, Palayakottai Village and Panchayat, Kangeyam Taluk, Tiruppur District, he started constructing a house in the month of May 2020. He belongs to Arunthathiyar Community of Scheduled Caste, whereas the area is fully dominated by Gounders and they discorded the petitioner from constructing the house. Since a trouble was caused to the petitioner by the said families, he also gave a representation to the first respondent, who in turn issued a memo in Oo.Mu.5014/2020/oo3 dated 21.05.2020 to the District Revenue Officer to inquire into the issue and file a report. To hasten the inquiry, one of the family members in the said locality to create a problem, filed a Writ Petition in W.P.No.12312 of 2020, seeking a direction to restrain anyone from converting the agricultural land into a residential one. This Court has also disposed of the said Writ Petition by its order dated 09.09.2020. While disposing of the Writ Petition, directed the second respondent therein not to permit anyone to convert the property into a lay out and also to take action against any person who attempts to create any illegal encroachment on the property, since the land is an agricultural one. Taking advantage of the same, the local resident instigated the first respondent, who also passed the impugned order in Na.Ka.No.01/2020-2021 dated 29.10.2020 to evict the petitioner from the agricultural land. The order passed by this Court in W.P.12312 of 2020 dated 09.09.2020, cannot be applied to the case of the petitioner as his building permission is pending from 24.11.2020. He further submitted that he is also entitled for conversion of his agricultural land into residential one as per the letter N.S.C. (Permanent) 1117 C.T.R.E. Department dated 30.10.1987 and G.O.Ms. 1971, Revenue (SS-II) Department dated 14.10.1998 and the same was not brought to the notice of this Court while the Writ Petition was disposed

on 09.09.2020.

3. On the other hand, learned Special Government Pleader for the respondents 1 to 3 has also brought to the notice of this Court that a similar Writ Petition filed by this petitioner in W.P.No.4864 of 2022 was withdrawn on 17.03.2022.

4. We are not concerned with the above order passed by this Court since the petitioner himself in para 2 of his affidavit has admitted that he had started constructing the house in the month of May 2020 and no planning permission has been obtained. We are unable to entertain the Writ Petition and therefore, the impugned notice sent by the third respondent does not call for any interference. Accordingly, the Writ Petition fails and is liable to be dismissed.

5. We are also informed by the learned Special Government Pleader that there was already an order dated 18.02.2022 passed in Contp. No.16 of 2022, directing the second respondent therein to take immediate action to remove the unauthorized construction in accordance with law found in the same area and therefore, we are unable to show any indulgence to the petitioner as against the impugned order passed against him.

6. Since the petitioner did not obtain the planning permission till date, the Writ Petition fails and accordingly, the same stands dismissed. However, this Court is of the opinion that the application filed by the petitioner seeking for planning permission before the first respondent may be considered as per law. Hence, there shall be a direction to the respondents to consider the application filed by the petitioner seeking for planning permission, within a period of eight weeks from the date of receipt of a copy of this order. There shall be no orders as to costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

DP

To

1. The District Collector,
The District Collector Office,
Tiruppur District.

2. The Regional Block Development Officer,
(Village Panchayats),
Village Panchayats Union Office,
Kangeyam,
Tiruppur District.

3. The President,
Pazhayakottai Village Panchayat,
Pazhayakottai Village,
Kangeyam Taluk,
Tiruppur District.

+1cc to Mr.B.Mohan, Advocate, S.R.No.38668

+1cc to Mr.M.Venkadesh Kumar, Advocate, S.R.No.38653

+1cc to the State Government Pleader, S.R.No.39015

W.P.No.12650 of 2022

SR-II (CO)
RGA(19/07/2022)