



WEB COPY



W.P.No.26121 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2022

CORAM

THE HONOURABLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.26121 of 2022

M.Deepan Rajan

.. Petitioner

Versus

1.The District Collector,
Dharmapuri District,
Dharmapuri.

2.The District Revenue Officer,
Dharmapuri District,
Dharmapuri.

3.The Tahsildar,
Nallampalli Taluk,
Nallampalli,
Dharmapuri District.

4.Krishnan

.. Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India seeking for issuance of a writ of mandamus to direct the the respondents 1 to 3 to consider the representation of the petitioner dated 29.06.2022 and take action to remove the encroachment made by the fourth respondent in the petitioner's land measuring 31/2ft x 38ft. approximately 140 sq.ft. in Survey No.203-part and subdivided Survey No.203/6, Nallampalli Village, Dharmapuri District, encroached by the fourth respondent.



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For Petitioner

: Mr.G.Vasudevan

For R1 to R3

: Mr.P.Muthukumar

State Government Pleader

ORDER

(Order of the Court was delivered by The Hon'ble Acting Chief Justice)

Mr.M.Deepan Rajan has filed this writ petition under Article 226 of the Constitution of India seeking for issuance of a writ of mandamus to direct the respondents 1 to 3 to consider his representation dated 29.06.2022 and take action to remove the encroachment made by the fourth respondent in the petitioner's land measuring 31/2ft x 38ft approximately (140 sq.ft.) in Survey No.203-part and subdivided Survey No.203/6, Nallampalli Villgae, Dharmapuri District.

2. Learned counsel for the petitioner would submit that the land measuring an extent of 1442 sq.ft. comprised in Grama Natham Survey No.203-part and subdivided Survey No.203/6, Nallampalli Village, Dharmapuri District, was originally belonged to the petitioner's father and his father was enjoying the said property for more than 40 years. Whiles, in the year 2014, the petitioner's father expired on 27.08.2014 leaving behind the petitioner and another son by name Mr.Lakshmanan. Subsequently, the petitioner's brother released his share of property in his favour vide release deed dated 07.01.2022 registered as Document No.94/2022 on the file of Sub-Registrar, Dharmapuri. The Revenue Authorities, on payment of necessary charges, surveyed his land and fixed the boundary stones. Thereafter, when the petitioner was taking steps to construct the building in the subject property, the fourth respondent and his family members have removed the stones fixed by



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the Tahsildar on the petitioner's land and thereby attempted to occupy his land by preventing him from putting up further construction. Moreover, the petitioner was also threatened with dire consequences. Therefore, a complaint was lodged on 17.06.2022 before Adhiyaman Kottai Police Station against the fourth respondent. In addition thereto, a representation dated 29.06.2022 was also given to the Tahsildar, Nallampalli, requesting to remove the encroachment put up by the fourth respondent. But, since no action was taken, he has filed the present writ petition with a prayer cited supra.

3. We do not find any merit on the above said submission. It is the claim of the petitioner that the land in question belongs to his father and the patta was granted in his favour vide Patta No.345 on 31.01.1991 by the Special Tahsildar, Natham Land, Tax Project. It is also his further claim that his brother released his share of the property in his favour through a registered release deed dated 07.01.2022. Therefore, since the issue in hand is civil in nature, if any encroachment is made as alleged by the petitioner, he has to work out his remedy before the competent civil court for appropriate relief. Leaving that course open, he cannot come to this Court by filing the writ petition under Article 226 of the Constitution of India. Thus, on this count, the writ petition is dismissed as devoid of any merit. No Costs.

(T.R., ACJ.) (D.K.K., J.)
28.09.2022

rkm
Index:yes/no
Speaking/non-speaking



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THE HON'BLE ACTING CHIEF JUSTICE
and
D.KRISHNAKUMAR, J.
rkm

To

- 1.The District Collector,
Dharmapuri District,
Dharmapuri.
- 2.The District Revenue Officer,
Dharmapuri District,
Dharmapuri.
- 3.The Tahsildar,
Nallampalli Taluk,
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