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W.P.No.26562 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2022

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.26562 of 2022

and

WMP.No.25621 of 2022

G.Kumaravel

...Petitioner

Vs.

1. The District Collector,
Collectorate,
Tiruppur - 641 604.
2. The Tahsildar,
North Zone,
Kumaran Road, Tiruppur - 641 601.
3. A.Nataraj

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 and 2 to forbear the 3rd respondent, their men, agents from in any manner, interfering or putting up fencing in the petitioner's school premises and disturbing the students of the school using the playground situated in Poondi Ring Road, No.4, Chettipalayam Post, Tiruppur 641603 comprised in S.Nos.182/2 and 182/3 having an extent of 2 acres of land in the form of playground without following due process of law until the disposal of the suit O.S.No.101 of 2022 on the file of DMC, Tiruppur on merits.



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For Petitioner : Mr.A.Umasankar

For Respondents : Mr.T.K.Saravanan, GA, for R1 & R2
: Mr.R.Viduthalai, SC
for M/s.R.Revathy, for R3

ORDER

The petitioner has filed this Writ petition seeking issuance of a Writ of Mandamus to direct the 1st and 2nd respondents to forbear the 3rd respondent and their men from in any manner, interfering or putting up fencing in the petitioner's school premises and disturbing the students of the school for using the playground situated at Poondi Ring Road, No.4, Chettipalayam Post, Tiruppur 641603 comprised in S.Nos.182/2 and 182/3, measuring an extent of 2 acres in the form of playground, without following due process of law until the disposal of the suit in O.S.No.101 of 2022.

2. The case of the petitioner is that due to property dispute between the petitioner and the 3rd respondent in respect of usage of the playground situated in the petitioner's school, the 3rd respondent filed a suit in O.S.No.101 of 2022 on the file of the District Munsif, Tiruppur against the



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petitioner and obtained ex-parte order dated 13.07.2022, as the petitioner was unable to appear before the lower Court due to his poor health condition. Immediately, the petitioner filed an application in I.A.No. 179 of 2022 in O.S.No.101 of 2022 to set aside the said ex-parte order and the said application and the main suit are still pending. While so, taking advantage of the ex-parte order, the 3rd respondent approached the official respondents and on 18.09.2022, the 3rd respondent came with police personnel and other officials and started putting up fencing surrounding the playground of the petitioner's school. Aggrieved by the above said action of the official respondents, the petitioner has filed this Writ petition.

3. Learned counsel for the petitioner submitted that, though the suit in O.S.No.101 of 2022 is pending, taking advantage of the said ex-parte order dated 13.07.2022 passed in the said suit, the 3rd respondent is putting up fence surrounding the playground of the school and thereby blocked the entry to the students of the petitioner's school to use the same. Though the petitioner has given complaints on 30.07.2022 and 14.08.2022 before the Inspector of Police, Velampalayam, no action has been initiated on the said complaints. While so, without ascertaining any of the above said facts,



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merely based on the report of the 2nd respondent dated 14.09.2022, the 1st respondent, vide communication dated 15.09.2022, directed the police personnel to provide police protection to the 3rd respondent to put up the fence surrounding the playground, which is not sustainable. Hence, he prayed for appropriate orders.

4. Though very many grounds have been raised, learned Senior counsel appearing for the 3rd respondent fairly submitted that, though the 3rd respondent has initially obtained ex-parte order, however, subsequently, the petitioner has filed an application in I.A.No.179 of 2022 in O.S.No.101 of 2022 to set aside the above said ex-parte order. Hence, this Court without going into the merits of the case, may permit the petitioner as well as the private respondent to workout the remedy in the manner known to law in the above said pending suit in O.S.No.101 of 2022 on the file of the District Munsif Court, Tiruppur.

5. Learned Government Advocate appearing for the 1st and 2nd respondents fairly submitted that the official respondents will not interfere with the dispute pending between the petitioner as well as the private



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respondent and they will abide by the order to be passed in the said suit.

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6. Heard learned counsel on either side and perused the materials available on record.

7. In view of the fair submissions made by learned counsel on either side, this Court without expressing any opinion on the merits of the case, is inclined to dispose of this Writ petition with the following directions:

(i) The petitioner and the 3rd respondent are directed to canvass all their grievances before the lower court where the suit in O.S.No.101 of 2022 is pending.

(ii) The official respondents are directed not to interfere with the civil dispute in between the petitioner and the 3rd respondent.

(iii) Liberty is granted to the succeeding party in the said suit to approach the official respondents by filing appropriate application, based on the result of the said suit in O.S.No.101 of 2022.

8. With the above observations and directions, this Writ petition is accordingly disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

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Speaking Order : Yes/ No
Index : Yes/ No

M.DHANDAPANI, J.

skt

To

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