



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2022

CORAM:

**THE HONOURABLE MR.JUSTICE PARESH UPADHYAY
AND
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY**

W.P(MD)No. 548 of 2022

Senthil Kumar

.. Petitioner

Vs

1. The District Collector,
Trichy District.
2. The Revenue Divisional Officer,
Trichy.
3. The Tahsildar,
Thiruverumbur Taluk,
Thiruverumbur, Trichy.
4. The Deputy Director of Town
and Country Planning,
Trichy Region,
Kajamalai Main Road,
Kajamalai, Trichy-23.
5. The Block Development Officer
(Village Panchayat),
Office of the Panchayat Union,
Thiruverumbur, Trichy.
6. J.S.Leyron Morais.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relates to the impugned order passed by the third respondent in his proceedings in Na.Ka.A1/3394/2016 dated 23.06.2021 and consequential impugned order passed by the fifth respondent in his proceedings in Na.Ka.P2/5438/2020 dated 06.07.2021 and quash the same as illegal, without jurisdiction and violative of principles of natural justice and consequently directing respondents 1 to 3 to evict the encroachment made by the sixth respondent situated in S.F.Nos.197/2, 198/2, 204, 205 and other survey Numbers



in Keelakurichi Village in S.F.Nos.1/1A, 405/6, 405/8, 407/1 and other survey numbers of Gundur Village of Thiruverumbur Taluk, Trichy District and consequently directing the respondents 4 and 5 to cancel the approval granted for the layout of Morais City situated in Trichy - Pudukottai Main Road, Trichy.

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For Petitioner : Mr.S.Krishnan
For Respondents : Mr.M.Siddharthan,
Addl.Government Pleader
for R1 to R5
Mr.T.Lajapathi Roy for R6

ORDER

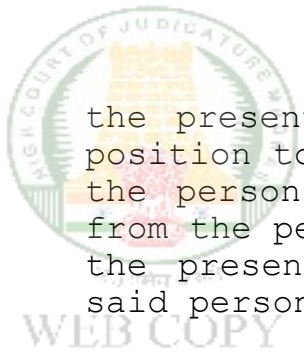
(Made by PARESH UPADHYAY, J.)

Challenge in this petition is made to the orders dated 23.06.2021 and 06.07.2021 passed by respondent Nos. 3 and 4.

2. Learned advocate for the petitioner has submitted that, the petitioner had earlier approached this Court seeking innocuous relief, seeking direction against the respondents - State Authorities to decide his representation, which they have decided and rejected, which is under challenge in this petition. Reference is made by him to the averments regarding W.P(MD) Nos.3343 of 2019 & 18517 of 2020. In substance, the grievance of the petitioner is that the encroachment is made by the sixth respondent, which according to him is on water bodies and the same needs to be removed under the orders of this Court.

3. Learned advocate for the sixth respondent, against whom allegations are made has appeared and has submitted that the arm twisting technique is being resorted to by the writ petitioner, since there are more than one civil litigation between the groups / parties, where the petitioner is plaintiff and either the present respondent is the defendant or the person from whom the present respondent has bought the property in question is the defendant. Learned advocate for the respondent has specifically referred to two civil suits being O.S.No.1366/2016 in the Court of I Additional Subordinate Judge, Trichy and O.S.No.158/2018 in the Court of III Additional District Judge, Trichy. It is submitted that, the civil dispute between the parties is sought to be over-reached, with the aid of the orders of this Court on this petition. It is submitted that this petition be dismissed.

4. Before rival contentions are adjudicated, learned advocate for the petitioner is specifically asked with regard to pendency of the above referred civil suits (O.S.No.1366/2016 & O.S.No.158/2018), subject matter thereof and the effect of this petition over the said suits. To this, learned advocate for the petitioner is not in a position to dispute that, those two civil suits are pending and



the present petitioner is plaintiff therein. He is also not in a position to dispute that, the present (private) respondent is one of the persons, who had bought the part of the property in question from the person, to whom the said property was sold by the father of the present petitioner during his lifetime and further that, the said person is defendant in the suit.

5. The above, according to us is suppression of material fact. Though learned advocate for the petitioner has attempted to refer to the averments made in paragraph 3 of the writ petition, where there is a reference to earlier petition being W.P.(MD) No. 18517 of 2020, which according to him is sufficient disclosure of facts before this Court, we find that, pendency of the civil suits referred above has direct bearing on the dispute voiced in this petition, which is not disclosed. It is not even referred. Further, the relationship of the petitioner and the respondent is also a material fact, which also ought to have been disclosed by appropriate averment in the affidavit of the petition, which is not there. Therefore we hold that, this petition suffers from the vice of suppression of material facts. This petition therefore needs to be dismissed on this count alone.

6. The Supreme Court of India in the case of (i) Salem Advocate Bar Association vs Union of India, reported in (2005) 6 SCC 344 and (ii) Rakesh Kumar Goel vs U.P.State Industrial Development Corporation Ltd reported in AIR 2010 SC 2451, has held that, filing of petition is not like buying a lottery ticket, that if fortune favours, there would be a windfall, otherwise it would not cost anything more than the price of the said ticket. Writ Petitions can not be filed like this, and if filed, can not be entertained like that. Keeping these observations in view, dismissing this petition simpliciter would only acknowledge the ingenuine attempt on the part of the petitioner of abusing the process of law under Article 226 of the Constitution of India. Therefore costs also needs to be imposed. From the averments in the petition, it transpires that the petitioner has introduced himself as an MBA graduate, differently-abled person and doing agriculture. For this reason, exemplary cost is not imposed but only token cost of Rs.10,000/- (Rupees Ten Thousand Only) is imposed, which shall be paid by the writ petitioner to the sixth respondent, by demand draft, within a period of fifteen days from today.

7. For the above reasons, the following order is passed:

7.1 This petition is dismissed with costs.

7.2 Rs.10,000 is quantified as token costs. This amount shall be paid by the present writ petitioner to the sixth respondent, by demand draft, within a period of fifteen days from today.

