



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.[MD]No.6777 of 2022

and

W.M.P.[MD]No.5222 of 2022

WEB COPY

V.Murugapandian

... Petitioner

Vs.

1.The Assistant Director,
Directorate of Town Panchayats,
District Collectorate Campus,
Dindigul, Dindigul District.

2.The Executive Officer,
Pannaikadu Town Panchayat,
Pannaikadu, Kodaikanal Taluk,
Dindigul District.

3.V.Malarkodi

... Respondents

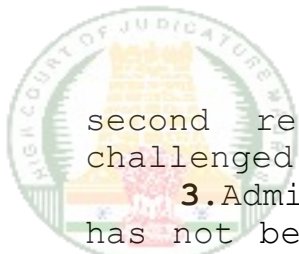
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order passed by the second respondent in Na.Ka.No.79/2022 dated 30.03.2022 and quash the same as illegal.

For Petitioner	: Mr.Arul Jenifer for Mr.S.Abuthaheer
For Respondent No.1	: Mr.B.Saravanan Additional Government Pleader
For Respondent No.2	: Mr.N.Ramesh Arumugam Government Advocate

O R D E R

This writ petition has been filed challenging the impugned order passed by the second respondent forbearing the petitioner from proceeding further with the construction in his property, on the ground that a civil suit filed by the third respondent is pending in respect of the very same property.

2.The petitioner has challenged the impugned order on the ground of violation of principles of natural justice. According to him, the suit referred to in the impugned order does not pertain to the subject property. Further, it is his case that he is not a party to the said suit. According to the petitioner, without giving an opportunity of hearing, the impugned order has been passed by the



second respondent. In such circumstances, the petitioner has challenged the impugned order.

3. Admittedly, as seen from the impugned order, the petitioner has not been heard. Only based on the complaint given by the third respondent stating that there is a suit filed by her with regard to the subject matter of the property, the second respondent has passed the impugned order. The petitioner, in the affidavit filed in support of the writ petition has traced his title to the subject property and claims absolute ownership. None of the documents referred to by the petitioner in the affidavit filed in support of this writ petition has been reflected in the impugned order. By total non-application of mind to the same, the impugned order has been passed and it is also a non-speaking order. Hence, this Court is of the considered view that principles of natural justice has been violated and the second respondent has restrained the petitioner from proceeding further with the construction by a non-speaking order.

4. For the foregoing reasons, the impugned order has to be necessarily quashed and the matter has to be remanded back to the second respondent for fresh consideration on merits and in accordance with law after affording a fair hearing to the petitioner and the third respondent, within a time frame to be fixed by this Court.

5. In the result, the impugned order dated 30.03.2022, passed by the second respondent is hereby quashed and the matter is remanded back to the second respondent for fresh consideration on merits and in accordance with law after affording a fair hearing to the petitioner and the third respondent including granting them the right of personal hearing, within a period of eight [8] weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

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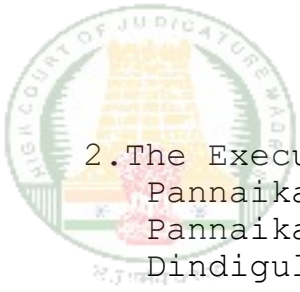
/ /2022

Sub Assistant Registrar(CS)

MR

To

1. The Assistant Director,
Directorate of Town Panchayats,
District Collectorate Campus,
Dindigul, Dindigul District.



2.The Executive Officer,
Pannaikadu Town Panchayat,
Pannaikadu, Kodaikanal Taluk,
Dindigul District.

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+1 CC to M/s.S. ABUTHAHEER, Advocate (SR-18064[F] dated
12/04/2022)

+1 CC to M/s.SPL.GP. (SR-18597[F] dated 13/04/2022)

W.P. [MD]No.6777 of 2022

12.04.2022

MGJ(02.05.2022) 3P 5C