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W.P.(MD)NO.8004 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.8004 of 2022 and
W.M.P.(MD)Nos.5992 & 5993 of 2022

P.Arulanandu

... Petitioner

Vs.

1. The District Collector,
Collectorate Campus,
Dindigul,
Dindigul District.
2. The Block Development Officer,
Sanarpatti Union Office,
Sanarpatti Union,
Dindigul,
Dindigul District.
3. The Village Panchayat President,
Koovanuthu Village Panchayat,
Sanarpatty Union,
Dindigul East Taluk,
Dindigul District.
4. Arockia Dass

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent herein in proceeding Na.Ka.No.2896/21/Thi2, dated 31.01.2022 and quash the same



as illegal and consequently direct the first respondent to consider the petitioner's representation dated 31.03.2022 and direct respondents 1 and 2 to provide all the assistance under PMAY (G) Work Order No.TN.1281177561 dated 24.11.2021 to the petitioner in order to complete the petitioner's house within a time frame that may be stipulated by this Court.

For Petitioner : Mr.M.Sasi

For R-1 to R-3 : Mr.K.Balasubramani,
Special Government Pleader.

For R-4 : Mr.P.Venkatesan

* * *

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for respondents 1 to 3 and the learned counsel appearing for the fourth respondent.

2. The writ petitioner and the fourth respondent are brothers. Their mother executed two deeds of settlement settling 22 cents of land in his favour. They are registered documents. Patta has also been issued in favour of the writ petitioner. Copies of the same have been enclosed in the typed



set of papers. The petitioner applied for issuance of work order under Pradhan Mantri Awas Yojana scheme 2021-22.

The petitioner's request was accepted and he was chosen as a beneficiary. Work order was also issued. In the meanwhile, the fourth respondent filed O.S.No.508 of 2021 on the file of the Additional Sub Court, Dindigul, seeking partition. Citing the pendency of the civil suit, the impugned communication dated 31.01.2022 was issued by the Block Development Officer calling upon the petitioner not to continue the construction activities under the said work order. Challenging the same, this writ petition has been filed.

3. The fourth respondent has filed a detailed counter affidavit. The fourth respondent states that since the construction under Pradhan Mantri Awas Yojana scheme is to come upon the litigation property, the second respondent rightly issued the impugned communication forbearing the writ petitioner from continuing the construction. He submitted that the writ petition deserves to be dismissed.



4. The learned Special Government Pleader also endorsed the stand of the fourth respondent and called upon this Court to sustain the impugned communication.

5. I carefully considered the rival contentions and went through the materials on record.

6. It is beyond dispute that the petitioner claims title over 22 cents of land only on the strength of the registered settlement deeds. The revenue records reflect his name. Merely because the petitioner's elder brother had filed a partition suit including the property in question, that cannot be a ground for the second respondent to pass the impugned restraint order. Admittedly, the jurisdictional civil Court has not granted any injunction in favour of the fourth respondent. As rightly pointed out by the learned counsel appearing for the petitioner, the fourth respondent has only sought 1/5th share in the property. The construction in question will come up only on a mere cent of land. Even if the fourth respondent succeeds in the partition suit, he would have claimed only on 4 ½ cents of land. The civil suit will take long time to



conclude. When final decree is passed, the jurisdictional civil Court will certainly take note of the equities. Therefore, there is no justification for the second respondent to pass the impugned order, when the civil Court has not passed any injunction order in favour of the fourth respondent. When the revenue record is not in favour of the fourth respondent, the second respondent ought not to have passed the impugned order. The impugned communication is quashed. This writ petition stands allowed. I make it clear that the rights of the parties will abide by the outcome of the aforesaid civil suit. No costs. Consequently, connected miscellaneous petitions are closed.

06.07.2022

Index : Yes / No
Internet : Yes/ No

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6

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G.R.SWAMINATHAN,J.

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