



W.P(MD)No.16926 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16926 of 2022

and

W.M.P.(MD)No.12326 of 2022

R.Gandhi

... Petitioner

Vs.

- 1.The District Collector,
Theni District, Theni.
- 2.The Superintendent of Police,
Theni District, Theni.
- 3.The Tahsildar,
Taluk Office,
Theni Taluk & District.
- 4.The FIRKA Surveyor,
Taluk Office,
Theni Taluk & District.
- 5.The Inspector of Police,
Palanichettipatti Police Station,
Theni District.
- 6.The Sub Inspector of Police,
Palanichettipatti Police Station,
Theni District.

7.R.Kannan

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1 to 6 to remove the fence illegally put up in the property comprised in Survey No.415/4B and 415/3 at the behest and active assistance of respondents No.3 to 6 and to restore the agricultural bore well pipeline damaged by the 7th respondent.

For Petitioner : Mr.R.Murugan

For Respondents : Mr.M.Prakash,
Addl. Government Pleader for R1 to R6.

ORDER

Heard the learned counsel for the writ petitioner and the learned Additional Government Pleader for the respondents 1 to 6. The seventh respondent has not been served. The seventh respondent is none other than the writ petitioner's brother.

2.The grievance of the writ petitioner is that the seventh respondent had obtained an order in W.P.(MD)No.5922 of 2022 for survey and fixing of boundaries by suppressing material facts. It is stated that the seventh respondent filed a civil suit against the writ petitioner and that I.A. filed by him had also been dismissed. Even though this Court had earlier given a specific



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direction in CrI.O.P.(MD)No.1117 of 2022, the local police are acting in aid of the seventh respondent. The specific allegation of the writ petitioner is that the seventh respondent had illegally put up fence in the petition mentioned property. He wants this Court to direct the official respondents to remove the same.

3.If an order had been obtained fraudulently in W.P.(MD)No.5922 of 2022, the remedy open to the writ petitioner is to file a review petition thereon. If according to the petitioner, the direction given by this Court in CrI.O.P.(MD)No.1117 of 2022 is breached, the remedy open to the petitioner is to file a contempt petition. The issue raised in the writ petition is purely private in nature. The petitioner has to necessarily workout his right against the seventh respondent only before the jurisdictional civil Court. The official respondents cannot be directed to remove the fence in question.

4.Leaving open the petitioner's other rights and remedies, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

12.08.2022

Index : Yes / No
Internet : Yes/ No
ias



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G.R.SWAMINATHAN, J.

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