



WEB COPY



W.P.No.17662 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.17662 of 2023
and
W.M.P.No.16756 of 2023

D.Imran

... Petitioner

Vs.

1. The Revenue Divisional Officer,
Vaniyambadi, Tirupatur District.

2. Amutha

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari, calling for the records pertaining to impugned order in Na.Ka.A5/574/ 2023 of the 1st respondent dated 16.05.2023 and quash the same.

For Petitioner	:	Mr.C.Prakasan for Ms.Karan and Uday
For Respondents (for R1)	:	Mr.T.Arun Kumar, AGP



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ORDER

The writ of Certiorari has been instituted to quash the order passed by the Revenue Divisional Officer, Vaniyambadi, in the proceeding dated 16.05.2023 under Section 133(d) of the Code of Criminal Procedure.

2.The petitioner states that he is the resident of No.14, Anna Nagar, Pudur, Vaniyambadi, Tirupattur District and 3 coconut trees are located in the premises belonging to the petitioner. The second respondent filed a complaint before the first respondent stating that the coconut trees located in the premises of the petitioner are causing nuisance to her and it exposes danger. The trees are inside the compound of the second respondent complainant and therefore, the trees are to be removed by invoking the powers under the Code of Criminal Procedure.

3.The learned counsel for the petitioner made a submission that adequate safety measures have been taken by the petitioner to protect the trees and also to ensure that the debris or the coconuts is not falling into the premises of the second respondent. In spite of all the safety measures taken by the second respondent, the first respondent has passed the



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impugned order. In the event of cutting trees, it will cause loss to nature and environment and therefore, the impugned order is to be set aside.

4.The learned Additional Government Pleader raised an objection by stating that the facts presented by the petitioner is incorrect. This Court, accordingly, requested the Revenue Divisional Officer to conduct personal inspection and present facts before this Court. Ms.P.Premalatha, Revenue Divisional Officer, Vaniyambadi, appeared virtually and made a submission that she conducted an inspection and found that two out of three trees are falling inside the premises of the second respondent and there is a possibility of falling debris or coconut which may cause danger to the persons moving inside the residential premises of the second respondent. More so, the coconut trees are covering the portigo of the second respondent house and there is a possibility of falling down of coconuts or debris or other things.

5.Since field inspection was conducted by the Revenue Divisional Officer (RDO), who in turn found that two coconut trees alone are causing nuisance to the second respondent and the safety measures taken by the petitioner would be inadequate. It would not be a long term solution and



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further the situation would result in some untoward incidents in the event of heavy rains or otherwise. The RDO has passed an order to remove two trees alone leaving the other tree which is not causing any danger to the premises of the second respondent.

6. Section 133 of the Code of Criminal Procedure contemplates conditional order for removal of nuisance. Sub clause (d) to Section 133 reads as under :

“that any building, tent or structure, or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary;”

7. In view of the fact that any building, tent or structure or any tree if causes nuisance, the authority competent is empowered to remove the same. The order impugned in this petition has been passed in consonance with the powers conferred on the RDO under Section 133 (d) of the Code of Criminal Procedure. Thus, this Court does not find any infirmity or perversity in respect of the reasons furnished for the purpose of removal of two coconut trees located in the premises of the writ petitioner.



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8. Accordingly, the first respondent is directed to remove the 2 coconut trees located in the premises of the petitioner posing danger to the second respondent's house within a period of two (2) weeks from the date of receipt of a copy of this order and the cost for cutting the trees is to be paid by the writ petitioner. In the event of non-payment, the RDO is directed to recover the same.

9. With these directions, the writ petition stands **dismissed**. No costs.

Consequently, connected miscellaneous petition is closed

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes

20.06.2023

To

The Revenue Divisional Officer,
Vaniyambadi, Tirupatur District.



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S.M.SUBRAMANIAM. J.,

(sha)

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