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W.P.No.21273 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON :	25.09.2023
ORDERS PRONOUNCED ON:	30.10.2023

CORAM :

THE HONOURABLE MRS. JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS. JUSTICE N.MALA

W.P.No.21273 of 2023
and W.M.P.No.22920 of 2023

A.Sekar

... Petitioner

Vs.

1.The District Collector
Collectorate Building
Kancheepuram 631 501.

2.The Tahsildar
Uthiramerur Taluk
Kancheepuram

3.Arul Pillai

4.The Block Development Officer
Uthiramerur, Kanchipuram District.
(R4 – *suo motu* impleaded vide
order of this Court dated 30.08.2023.)

... Respondents



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PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus, directing the 1st respondent to instruct the 2nd respondent to act upon the representation made by the petitioner to respondents on 29.04.2023 and 24.05.2023, requesting to stop the illegal occupation and unauthorized construction in the Grama Natham land located at Plot No.29 in Survey No.796/1, after sub-division Survey No.796/1A2 and new survey no.1154/29 situated at No.227, Perunagar Village, Uthiramerur Taluk, Kanchipuram District.

For Petitioner : Mr.S.Kathiravan

For Respondents : Mr.E.Vijay Anand, AGP
for RR1 & 2
Mr.C.B.Santhosh Kumar for R3

ORDER

N.MALA, J.,

The Writ Petition has been filed for a mandamus, to direct the 1st respondent to instruct the 2nd respondent to act upon the representation made by the petitioner on 29.04.2023 and 24.05.2023, requesting to stop the illegal occupation and unauthorized construction in the Grama Natham land



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located at Plot No.29 in Survey No.796/1, after sub-division Survey No.796/1A2 and new survey no.1154/29 situated at No.227, Perunagar Village, Uthiramerur Taluk, Kanchipuram District.

2. According to the petitioner, the grama natham land measuring to an extent of 8 cents comprising in Survey No.796/1, after sub-division, Survey No.796/1A2 and new Survey No.1154/29 situated at No.227 Perunagar Village, Uthiramerur Taluk, Kanchipuram District originally belonged to his grandfather – Late Kuppan Navithan. Out of the 8 cents, petitioner's grandfather purchased 3 cents from one Chinnu Navithan, vide sale deed dated 26.06.1922 in document No.1030/1922. The petitioner's ancestor's were residing in the said property and the construction put up in it was demolished by the 3rd respondent, 7 years back. At that time, the petitioner did not lodge any complaint before the police, because of some family problems.

3. After the death of the petitioner's grandfather – Kuppan Navithan,



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the aforesaid land of 8 cents was orally partitioned among his sons, viz., Nadesan Pandithar, Perumaal Pandithar and Arjunan Pandithar. In the said oral partition Arjunan Pandithar was allotted 3 cents of land purchased by Kuppan Navithan from Chinnu Navithan. The remaining 5 cents vested with the legal heirs of Nadesan Pandithar and Perumaal Pandithar, who in turn sold the 5 cents to one Ram Pillai, vide document No.144/1967 dated 31.01.1967.

4. As the petitioner's father died intestate, the property allotted to him in the oral partition devolved on the petitioner and his sister – K.Lakshmi. While so, when the petitioner visited his home town on 14.03.2023, he was told that the 3rd respondent had placed sand and other construction materials in his land and so the petitioner approached the 3rd respondent and orally advised him to remove the said construction materials from his property. On 21.03.2023, when the petitioner again visited his village, he found the 3rd respondent constructing a building in his land. Therefore, he lodged a complaint on 10.04.2023 before the local police station, which was



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registered in CSR No.206 of 2023. The petitioner also gave a representation before the 2nd respondent on 24.05.2023, complaining about the illegal occupation and construction by the 3rd respondent, over his property. The petitioner also filed a suit in O.S.No.31 of 2023 before the District Munsif Court, Uthiramerur, for permanent injunction. Even thereafter, the 3rd respondent continued with the unauthorized and illegal construction in the petitioner's land. Hence, the petitioner filed the above Writ Petition for the aforesaid relief.

5.The 3rd respondent filed counter stating that the petitioner's ancestor's sold the entire property to the petitioner's grand father – Mr.Raman Pillai vide document No.144 of 1967, conveying entire property measuring 5 cents, undivided share acquired by the legal heirs of Late Kuppu Pandithar and the sale deed was executed jointly by 1)Nadesa Pandithar, 2)Alamelu and 3)Arjunan Pandithar – father of the petitioner. According to the 3rd respondent, after the sale of the property by the petitioner's ancestors there was no property left with the petitioner and



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others. The 3rd respondent further submitted that as the absolute owner of the entire 5 cents, the 3rd respondent's father applied for approval to construct a house under Prime Minister's Rural Housing Scheme and got permission order dated 19.12.2022 in Registration No.TN01063/4/1889 Priority No.1 Secc No.121570850 under 2021 – 22. The petitioner's father after obtaining the sanction order, started construction in his land, after proper permit and approval under PMAY scheme and therefore, the construction made by the 3rd respondent's father was legal, authorized and has approved under the Central Government sponsored scheme.

6. When the matter was taken up for hearing on 19.07.2023, this Court ordered notice to the 3rd respondent. On 09.08.2023, the learned counsel for the 3rd respondent appeared before this Court and gave an undertaking that the 3rd respondent will not put up any further construction in the subject property. On 23.08.2023, the learned Additional Government Pleader was directed to file a status report. When the matter was taken up for further hearing on 30.08.2023, on the submissions of the learned Additional



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Government Pleader that the competent authority to give instructions regarding the subject property was the Block Development Officer, Uthiramerur, this court *suo motu* impleaded the BDO, Uthiramerur, as 4th respondent in the Writ Petition and ordered notice.

7.Today, a status report of the 4th respondent is produced. In the report it is stated that the 3rd respondent put up construction under the Prime Minister's Rural Housing Scheme. It is stated that as the scheme itself provides for construction permission, it is not necessary to get separate planning permission. Further, a total sum of Rs.2,40,000/- in three phases of Rs.1,20,000/-, Rs.70,000/- and Rs.50,000/- was sanctioned to the 3rd respondent under the said scheme. In support of the same, the pamphlet of the scheme is also produced.

8.We have heard the learned counsel appearing on either side and perused the materials placed before us.



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9.It is seen from the Status Report that the father of the 3rd respondent was selected as one of the beneficiaries of the Prime Minister's Rural Housing Scheme and in pursuance of the same, the disputed construction was made. It is seen from the scheme document that the fund for the construction is sanctioned under the scheme and as the building plan is given in the scheme document itself, no separate building approval is needed.

10.At this juncture, the learned Additional Government Pleader would submit that if the 3rd respondent is found to have violated the conditions of the Prime Minister's Rural Housing Scheme, appropriate action will be taken against him.

11.Considering the facts and circumstances of the case and also the submissions made by the learned Additional Government Pleader, the prayer in the Writ Petition to direct the 2nd respondent to stop the illegal occupation and unauthorized construction in the Grama Natham land located at Plot



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No.29 in Survey No.796/1, after sub-division Survey No.796/1A2 and new survey no.1154/29 situated at No.227, Perunagar Village, Uthiramerur Taluk, Kanchipuram District, cannot be entertained. Though the learned counsel for the petitioner has seriously disputed the title of the property, we are not inclined to consider the same as the Writ Petition is filed for mandamus, to stop the un-authorized construction. From the above facts, it is clear that the construction put up by the 3rd respondent is not an unauthorized one, but one constructed under the PMAY scheme. Hence, we find no merits in the Writ Petition. The petitioner, if advised, is at liberty to approach the Civil Court as regards the title dispute.

12.In view of the above the Writ Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

(J.N.B.,J.,)

(N.M.,J.,)

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Speaking Order : Yes/No

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Neutral citation : Yes/No
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Pre Delivery Order made in
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