



W.P.No.35534 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2023

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE P.DHANABAL

W.P.No.35534 of 2019
and W.M.P.Nos.36378 and 36380 of 2019

Mr.B.Thulasingham

... Petitioner

Vs.

1.The District Collector
Kanchipuram District
Kanchipuram

2.The Revenue Divisional Officer
District Collector Office
Kanchipuram

3.The Tahsildhar
Walajabad Taluk
Walajabad

4.The Head Surveyor of Lands
Walajabad Taluk
Walajabad

5.The Superintending Engineer
TNEB, TANGEDCO
Olimohammedpet
Kanchipuram



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6.The Junior Engineer
TNEB, TANGEDCO
Ayyanpettai
Walajabad Taluk
Kanchipuram Dt.

7.Thangi K.Palani

8.The Block Development Officer
Walajapet Taluk
Walajapet

(R8 suomotu impleaded as per order dt.20.02.2020
made in WP.35534/2019 by RPSJ, RPAJ)

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 1 to 4 to remove the unauthorised construction by the 7th respondent in the land belongs to the petitioner in Old S.No.1/1, as per Document, Old S.No.1/16 as per UDR scheme and New S.No.16/16A, Patta No.5, situated at Village No.32, Naickenpettai Village, Walajabad Taluk, Kanchipuram District.

For Petitioner :: Mr.A.Majojkumar

For Respondents :: Mr.E.Vijay Anand, AGP– R1 to R4
Mr.L.Jai Venkatesh –TNEB – R5 & 6
Mr.G.Punniyakoti – R7
Mr.M.Elumalai – R8



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ORDER

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(Order of the Court was made by D.KRISHNAKUMAR, J.)

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 1 to 4 to remove the unauthorised construction put up by the 7th respondent in the land belonging to the petitioner in Old S.No.1/1, as per Document, Old S.No.1/16 as per UDR scheme and New S.No.16/16A, Patta No.5, situated at Village No.32, Naickenpettai Village, Walajabad Taluk, Kanchipuram District.

2.It is the case of the petitioner that the 7th respondent had purchased the adjacent land admeasuring to an extent of 1040 sq. ft. in Survey No.16/28 vide registered document No.4413 of 2018, on the file of Sub Registrar Office, Walajabad. The writ petitioner is working in abroad and the 7th respondent taking advantage of the same, commenced the illegal construction exceeding the frontage of his land from 16 feet to 33 feet by encroaching upon the petitioner's land by 17 feet by using his capacity as an



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advocate and support from the local officials. The petitioner also preferred a complaint to the police station and he has also filed a suit in O.S.No.44 of 2019 before the District Judge, Kanchipuram for declaration and demolition of the building. In the aforesaid suit, the petitioner also filed I.A.No.156 of 2019 and status quo has been granted in the aforesaid suit. The petitioner also moved an application to appoint an advocate commissioner to survey the property in question, but no action has been taken for the past five years for executing the warrant issued to the advocate commissioner. Therefore, he has also filed another application before the Court and the same is pending. In the meantime, the 7th respondent also filed an application to reject the plaint and the same was dismissed. The learned counsel for the petitioner also submitted that the status quo order is still in force.

3. According to the petitioner there are serious allegations against the 7th respondent and the 7th respondent being the influenced person is misleading the Court in order to grab his property.

4. The petitioner also filed a writ petition before this Court for the



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prayer to remove the unauthorised construction put up by the 7th respondent in the land belonging to the petitioner.

5. Considering the above fact that the petitioner has filed a suit in O.S.No.44 of 2019 for removal of the encroachment of the property in question and the same is also pending and according to him the interim order is also in force, in such circumstances, the writ petition has been filed before this Court seeking for removal of unauthorised construction. The dispute between the parties are regarding the land in question where the 7th respondent has encroached upon the petitioner's land, this dispute can only be decided before the civil court and not by filing the writ petition. Therefore, once the title has been decided and if any unauthorised construction, it is only for the authority to take action.

6. Therefore, this Court is of the view that the disputes are civil in nature and that can be decided only by the concerned court. If there is an unauthorised construction by the 7th respondent or if there is any illegal construction or deviation, the 8th respondent being the custodian of law, has



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to take necessary action for removal of the said unauthorised construction.

Therefore, this Court directs the 8th respondent, B.D.O. To inspect the 7th respondent's property by giving notice to the parties and if they found that there is any unauthorised construction, they will have to take necessary action in accordance with law.

7. With the above, the writ petition stands disposed of. Whatever observation is made in the present writ petition, that may not be influenced by the civil court. The civil court should take decision independently without being influenced by any of the observations made by this Court. We are only concerned with the unauthorised construction, the 8th respondent being the B.D.O, has to take necessary action as against the 7th respondent for violations of rules. The 8th respondent is hereby directed to inspect the property and take actions as per law after providing an opportunity to the parties. No costs. Consequently, the connected miscellaneous petitions are closed.

(D.K.K.,J.) (P.D.B.,J.)

23.06.2023

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