



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) No.647 of 2023
and W.M.P.(MD) Nos.652, 653 & 655 of 2023

G.Sevugaperumal ... Petitioner
Vs.

1.The Tahsildhar,
Peraiyur Taluka,
Madurai District.

2.The Executive Officer,
Elumalai Town Panchayat,
Ward No.7, Perumalapatti Road,
Elumalai.

3.Nattathi Nadar Uravinmurai,
Reg No.45/2013,
Through its Secretary,
Mr.N.Jeyabal.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order made by the 2nd respondent in his proceedings in Na.Ka.No.182/2022 dated 26.12.2022 and quash the same as illegal.

For Petitioner : Mr.E.Mareeskumar
For Respondents : Mr.K.Balasubramani,
Special Government Pleader for R1
Mr.P.Thilakkumar
Government Pleader for R2
Mr.M.Vijayarathinam for R3

O R D E R

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition has been filed challenging the impugned order made by the second respondent in his proceedings in Na.Ka.No.182/2022 dated 26.12.2022.



2. Heard Mr.E.Mareeskumar, learned counsel for the petitioner, Mr.K.Balasubramani, learned Special Government Pleader for the first respondent, Mr.P.Thilakkumar, learned Government Pleader for the second respondent and Mr.M.Vijayarathinam for the third respondent.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

4. The learned Standing Counsel appearing for the petitioner submitted that the third respondent, due to personal enmity, has filed a Writ Petition in W.P.(MD)No.20727 of 2022, before this Court and this Court, by order dated 02.09.2022, directed the respondents therein to take necessary action for removal of the encroachment in S.No.704/4 in Elumalai Village, Periyar Taluk, Madurai District. He further submitted that there is a dispute between the petitioner and the third respondent in respect of the aforesaid property. He further submitted that S.No.578, is marked as 'Salai Poramboke' and the said land is coming in front of the petitioner's tea shop and the said place has been used only for the purpose of reaching the tea shop and therefore, the second respondent has passed the impugned order only with a *mala fide* intention and hence, the petitioner has filed this Writ Petition.

5. The learned counsel appearing for the third respondent submitted that admittedly, the petitioner has encroached the land in S.No.578, which has been classified as 'salai poramboke' and therefore, the petitioner cannot any justification to have the possession in the aforesaid property and hence, prays for dismissal of this Writ Petition.

6. The learned Government Pleader appearing for the second respondent submitted that the second respondent will take necessary action for removal of encroachment made by the petitioner in the 'salai poramboke'.

7. In reply, the learned counsel appearing for the petitioner submitted that the petitioner is not claiming any right over the property in S.No.578 and further, he undertakes that the petitioner will vacate the tea shop in S.No.578, within a period of two weeks. He further submitted that this Court may direct the second respondent not to disturb the petitioner's possession in the private property in S.No.572.

8. In the light of the submissions made by both parties, this Court, directs the second respondent to take necessary action for removal of encroachment, in the light of the impugned order dated 26.12.2022. In respect of (*)old S.No.572 is concerned, we are of the view that there is a dispute between the petitioner and the third respondent and therefore, they can seek their remedy before the competent civil Court. The 2nd respondent shall not (*)Interfere



WP(M)



123

in (*)old S.No.572.

9. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-I)

(*)Corrected as per the order of this court dated 01/02/2023

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/02/2023

Sub Assistant Registrar(CS)

vsm

To

1.The Tahsildhar,
Peraiyur Taluka,
Madurai District.

2.The Executive Officer,
Elumalai Town Panchayat,
Ward No.7, Perumalapatti Road,
Elumalai.

+1 CC to M/s.SPL.GP (SR-2347[F],SR-5546[F] dated 12/01/2023)

+1 CC to M/s.E.MAREES KUMAR, Advocate (SR-2513[F] dated
12/01/2023)

+1 CC to M/s.E.MAREES KUMAR, Advocate (SR-5959[F] dated
03/02/2023)

W.P.(MD) No.647 of 2023
11.01.2023

km(CO)

KB(16.02.2023) 3P 6C