



W.P.(MD).No.1933 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.1933 of 2021

D.John Raj David

... Petitioner

Vs.

1.The Executive Officer,
O/o. The Sathur Municipality,
Sathur Town,
Virudhunagar District.

2.The Divisional / Executive Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Sathur Town,
Virudhunagar District.

3.Glory

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents 1 and 2 from issuing property tax or electricity service connection or to cancel them if already issued to the third respondent's name over the petitioner's Seventh Day Adventists Church land in S.No.6/3B3A at Sathur Town, Virudhnuagar District.



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For Petitioner : Mr.N.S.Ponnaiah
For R-1 and R-2 : Mr.S.Deenadhayalan,
Standing Counsel.
For R-3 : Mr.G.Cenil

ORDER

This Writ Petition is filed for Mandamus forbearing the respondents 1 and 2 from issuing property tax or electricity service connection and to cancel them if already issued to the third respondent's name over the petitioner's Seventh Day Adventists Church land in S.No.6/3B3A at Sathur Town, Virudhnuagar District.

2. The contention of the petitioner is that the petitioner was working as Executive Director and Secretary, India Financial Association of Seventh Day Adventists at Mellkkal Main Road, Adventist Nagar, Kochadai, Madurai City and he is representing the said Association. The land in question admeasuring 38 ½ cents in S.No.6/3B3A in Ward No.3, Sathur Town, Virudhunagar District was purchased by the said Association. Subsequently, the Association has



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constructed a Church and has fenced the property. The husband of the third respondent, namely, Paulraj David had colluded with one James Chelladurai, the then Pastor of Sathur Church and illegally created a registered sale deed to a portion of 5 cents of land on the western side of the above said Church land of 38 ½ cents. Subsequently, the said Paulraj David based on the illegal document had created another gift deed dated 09.09.2011 over the said 5 cents of Church land in favour of his wife Glory/3rd respondent herein, without any legal basis. Relying on the falsely created document, the third respondent has filed a civil suit for injunction in O.S.No.89 of 2013 on the file of the Principal District Munsif Court at Sathur and the suit was dismissed, since the gift deed dated 09.09.2011 was not a legally valid one. The suit was dismissed, hence the attempts to grab the land was failed. In spite of the same, the 3rd respondent had approached the first respondent and has obtained property tax receipt. Based on the said property tax receipt, the third respondent has approached the second respondent and had obtained electricity connection. Hence, the petitioner has come forward to file this Writ Petition to cancel the property tax as well as the electricity connection.



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3. The contention of the petitioner is that the Church has submitted an objection to the first and second respondents. Without considering the petition, they have issued property tax and effected electricity connection on 01.02.2021. Since the electricity connection is granted subsequent to the judgment and decree dated 14.06.2019 passed in the suit. Hence, the petitioner is aggrieved by the action of the second respondent.

4. The contention of the second respondent is that the third respondent earlier submitted an online application on 04.11.2020, but the application was not annexed with sufficient documents like, the property tax and settlement deed etc., hence the said application was cancelled. Again, the third respondent submitted one more application on 15.12.2020 along with the tax receipt, sale deed executed in favour of the petitioner's husband and settlement deed executed by the third respondent's husband. Based on these documents, the second respondent effected electricity connection on 01.02.2021. The second respondent has relied on the sale deed and settlement deed. However, the contention of the petitioner is that the said sale deed and settlement deed cannot be executed at all, since it is a Church land. But the petitioner has not filed any



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suit to cancel the sale deed and consequential settlement deed. Unless these two documents are cancelled, the first and second respondents are not bound by any objection at all. Once the deed is executed and registered, then it has to be cancelled by the appropriate Civil Court. Mere objection by the petitioner is not sufficient and the petitioner should submit objection based on the evidence, since the petitioner has not cancelled the said two deed, then mere objection cannot be considered by the official respondents.

5. Therefore, the objections of the petitioner cannot be entertained. The petitioner ought to approach the Civil Court. After cancellation of sale deed and the settlement deed, the petitioner is at liberty to approach the first and second respondents for consequential relief of cancellation of property tax and disconnection of electricity connection. Until then, the third respondent is entitled to enjoy the service connection. However, such service connection is subject to the outcome of the suit that would be filed by the petitioner.



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6. With the above direction, this Writ Petition is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

- 1.The Executive Officer,
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Sathur Town,
Virudhunagar District.
- 2.The Divisional / Executive Engineer,
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S.SRIMATHY, J.

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