



W.P.(MD)No.7134 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.7134 of 2021

B.Rajendran

... Petitioner

Vs.

1.The Commissioner,
Madurai Corporation,
Madurai – 625 002.

2.The Deputy Commissioner,
Madurai Zone - 1,
Madurai Corporation,
Madurai – 625 001.

3.Pandiarajan

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 and 2 to take appropriate action as per the proceedings of the 2nd respondent dated 11/07/2019 in proceeding No.Na.Ka.No.M1 A9/00310/2019 and the representation made by the petitioner dated 18/02/2021.



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W.P.(MD)No.7134 of 2021

For Petitioner : Mr.K.C.Ramalingam

For Respondents : Ms.S.Devasana,
Standing Counsel
(For R-1 & R-2)

: Mr.V.N.Arjun
for Mr.N.Vallinayagam
(For R-3)

ORDER

This writ petition has been filed for the issue of writ of mandamus directing the first and second respondents to take appropriate action as per the proceedings of the second respondent dated 11.07.2019 and to deal with the representation made by the petitioner on 18.02.2021, wherein, the petitioner is seeking for taking action against the third respondent on the alleged ground that the third respondent had encroached upon the property of the petitioner and put up an illegal construction.

2. Heard the learned counsel appearing for the petitioner, as well as the learned Standing Counsel appearing for the first and second respondents and the learned counsel appearing for the third respondent.

3. When the matter was taken up for hearing, the learned counsel appearing for the third respondent submitted that there are three



W.P.(MD)No.7134 of 2021

suits pending in this regard. O.S.No.266 of 2019 has been filed by the third respondent and his wife against the petitioner and one Vinothpandian seeking for the relief of permanent injunction. O.S.No.277 of 2019 has been filed by the petitioner against the third respondent and others which also includes the Madurai Corporation seeking for the relief of declaration and for permanent injunction and for mandatory injunction to remove the construction put up by the third respondent in the portion belonging to the petitioner. O.S.No.565 of 2019 has been filed by the third respondent and his wife against the Madurai Corporation seeking for the relief of permanent injunction. All the suits are now pending before the concerned Civil Courts. The learned counsel appearing for the third respondent by relying upon the Judgment of the Hon'ble Apex Court in the case of ***State of Bihar and others Vs. Jain Plastics and Chemicals Limited*** reported in ***2002 (1) CTC 254*** and in the case of ***S.Krishnasamy Bhattar Vs, The Joint Commissioner, HR & CE Administration Department, Kancheepuram*** and others in ***W.P.No.1088 of 2023***, dated 12.07.2023, submitted that there is an efficacious alternative remedy available to the petitioner and therefore, the petitioner cannot be allowed to work out his remedy before a writ court.



W.P.(MD)No.7134 of 2021

WEB COPY

4. The learned Standing Counsel appearing on behalf of the Madurai Corporation submitted that in view of the pendency of the proceedings between the parties before the Civil Court, the representation made by the petitioner dated 18.02.2021 cannot be acted upon for the present.

5. Taking into consideration the facts and circumstance of the case and also of the fact that the parties are already agitating their rights before the competent Civil Court, this writ petition cannot be entertained. The relief sought for by the petitioner cannot be granted by this court. It is left open to the parties to work out their remedy in the pending civil proceedings and the Civil Court shall proceed further to deal with the same on its own merits and in accordance with law.

6. This Writ Petition is disposed of in the above terms. No costs.

17.10.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
tsg



W.P.(MD)No.7134 of 2021

To
The Revenue Divisional Officer,
Thiruvadanai Taluk,
Ramanathapuram.



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W.P.(MD)No.7134 of 2021

N.ANAND VENKATESH, J

tsg

W.P.(MD)No.7134 of 2021

17.10.2023