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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2023

CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)No.6526 of 2023

Rajendra Prasath

... Petitioner

vs.

1.The District Collector,
Thanjavur, Thanjavur District.

2.The Revenue Divisional Officer,
Kumabakonam, Thanjavur District.

3.The Tahsildar,
Kumabakonam, Thanjavur District.

4.The Block Development Officer,
Kumbakonam, Thanjavur District.

5.The Panchayat President,
Thenampadugai, Kumbakonam,
Thanjavur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to forbear respondents No.2 to 4 from constructing building in the petitioner's ancestral property in Survey No.112/8A in extent of 03.0 ares of punjai land located at Thenpadukai Village, Kumbakonam division, Thanjavur District by considering the



petitioner's representation dated 18.02.2023.

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For Petitioner	:Ms.S.Prabha
For R1 to R3	:Mr.D.S.Nedunchezian Government Advocate
For R4 and R5	:Mr.D.Sasikumar Special Government Pleader

ORDER

This Writ Petition has been filed in the nature of a Mandamus seeking a direction to forbear the the 2-4 respondents, the Revenue Divisional Officer, Kumbakonam, the Thasildar, Kumbakonam and Block Development Officer, Kumbakonam, from constructing a building in the petitioner's property in Survey No.112/8A measuring 03.0 ares of punjai land at Thenpadukai Village, Kumbakonam division, Thanjavur District. The petitioner had given a representation on 18.02.2023.

2.Heard Ms.S.Prabha, learned Counsel for the petitioner, Mr.D.S.Nedunchezian, learned Government Advocate for the respondents 1 to 3 and Mr.D.Sasikumar, learned Special Government Pleader for the respondents 4 and 5.



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3. In the affidavit filed in support of this Writ Petition, it had been stated that the petitioner had been residing in the aforesaid land. It had been stated that there had been a partition between Rajamanikkam Pillai @ Arumugam Pillai and Subbiah Pillai, which was registered in Doc.No. 756/1947. Thereafter, there had been another partition among the family members of Rajamanikkam Pillai @ Arumugam Pillai, which had been registered in Doc.No.286/1960. There had been a further partition between the father of the petitioner, Somasundaram and his legal heirs. The father died on 16.09.2022.

4. The petitioner claims right to possess the lands in S.No.112/8A measuring 03.0 ares. However, it is claimed that the fifth respondent, the Panchayat President of Thenampadugai at Kumbakonam had entered into the said land and had commenced putting up a construction.

5. The learned Counsel for the petitioner stated that the grandfather had granted permission in the land to put up a tank. But it is complained that further construction had now been put up by the fifth respondent.



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6.The learned Special Government Pleader however produced a copy of patta in Patta No.222, in which it is stated that the land in S.No. 112/8A stands in the name of “Thalaivar, Ooratchimandram, Thenampadugai”. The petitioner will have necessarily to take steps with respect to this particular entry in the revenue documents.

7.The learned Counsel pointed out the encumbrance certificate, but that is an document maintained by the registration department. If the petitioner seeks any alteration or correction in the revenue documents, then necessary steps in accordance with law should be taken before the revenue officials. The petitioner can rely on the document in the registration department, and can produce the same before the revenue authorities. But the petitioner will first have to take steps relating to patta No.222, which stands in the name of “Thalaivar, Ooratchimandram, Thenampadugai”, sofar as the land S.No.112/8A is concerned. So long as that entry is there, the fifth respondent has every right to construct building.



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8.If the petitioner is able to establish title and also establish that unlawfully the fifth respondent had entered into the land, then the petitioner would be entitled for necessary relief but, that again can be granted only by the competent civil court. Therefore, the petitioner should first take necessary steps relating to the document in Patta No.222 and then proceed further, even though the said patta had been granted in the name of “Thalaivar, Ooratchimandram, Thenampadugai”, nearly about 30 years. The petitioner can explain the the delay to take necessary steps. If the reasons for the delay are acceptable, then the specific authority, before whom such application had been filed, may take it on record, otherwise, may pass necessary orders.

9.Recording as above, the Writ Petition stands disposed of. No costs.

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

22.06.2023

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C.V.KARTHIKEYAN, J.

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Order made in
W.P.(MD)No.6526 of 2023

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