



W.P.(MD)No.8214 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.8214 of 2020

and

W.M.P.(MD)No.7627 of 2020

Jeremy Paul Antonino De Mel

... Petitioner

Vs.

1.The District Collector,
District Collector's Office,
Tuticorin, Tuticorin District.

2.The Block Development Officer,
(Village Panchayats),
B.D.O.Office,
Panchayat Union Office,
Vilathikulam,
Tuticorin District.

3.The President,
Vembar Village Panchayat,
Vembar North, Vembar- 628 906,
Vilathikulam Taluk, Tuticorin District.

4.T.Sahayanesan

...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the first respondent herein to take appropriate action as against the third respondent herein in the light of



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the petitioner's representation dated 22.06.2020 within a stipulated period as may be fixed by this Court.

[prayer- amended vide order dated 10.11.2023]

For Petitioner	: Mr.R.Sundar
For R1 to R3	: Mr.K.S.Selvaganesan Additional Government Pleader
For R4	: No Appearance

ORDER

This writ petition has been filed for the issue of writ of mandamus directing the first respondent to take action against the third respondent in the light of the representation made by the petitioner on 22.06.2020 within the time frame stipulated by this Court.

2.Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the official respondents.

3.The writ petition has been filed by the power of attorney agent of one Mr.N.Jeyachandran. According to the petitioner, the subject property absolutely belonged to the grandfather of the petitioner and on his demise, it vested on the father of the petitioner and his brother and they were in possession and enjoyment of the same. After the demise of petitioner's father,



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the petitioner became entitled to the property and was in possession and enjoyment of the same. The further case of the petitioner is that the property also stands in the name of the father of the petitioner in the revenue records.

4.The grievance of the petitioner is that the fourth respondent started to claim himself to be a power of attorney agent of the petitioner and attempted to alienate and encumber the subject property. That apart, he had also created some documents and sold some of the properties. In view of the same, the petitioner had filed a suit in O.S.No.10 of 2020 before the II Additional District Judge, Tuticorin for setting aside the fraudulent documents created by the fourth respondent and also for the relief of partition.

5.In the meantime, the fourth respondent with the connivance of the third respondent was attempting to get the property assessed in his name. Hence, the representation was made to the Chief Minister Redressal Cell and the same was forwarded to Tashildar, Vilathikulam. The Tahsildar through note dated 29.10.2019 informed the petitioner that already instructions have been given to the Village Administrative Officer not to make any patta transfer with respect to the subject property. Whiles, the fourth respondent was attempting to get the property assessed in his name with the connivance of the third



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respondent. Therefore, the representation was made before the first respondent to take action against the third respondent for illegally attempting to make changes in the tax assessment of the subject properties. Since the same was not considered, the present writ petition was filed before this Court.

6.The third respondent has filed counter affidavit. He has taken a stand that there is a title dispute between the petitioner and the fourth respondent with respect to the subject property and the same is pending before the competent civil Court in O.S.No.10 of 2020. He has further stated in the counter that the petitioner has not obtained any interim order against the fourth respondent or anyone else restraining them from alienating the subject property. Hence, when the third respondent was approached for change of tax assessment with respect to the subject property, the same was considered by making reference to the relevant documents of title that was produced before the third respondent. In view of the same, the third respondent has stated that there is absolutely no illegality committed by the third respondent in this case.

7.The fourth respondent has also filed counter affidavit in this case. He has also taken a stand that the father and uncle of the petitioner had executed a power of attorney in favour of the fourth respondent through the



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registered power of attorney deed dated 01.06.1995 and that the fourth respondent had acted upon this power of attorney document and alienated the property. This has now been challenged by the petitioner before the competent civil Court and the same is pending in O.S.No.10 of 2020.

8.Further, the fourth respondent questioned the very locus of the agent, who has filed the present writ petition. The fourth respondent has also brought to the notice of this Court the earlier proceedings initiated before the civil court, which is now pending before this Court in S.A.No.1465 of 2004. In view of the same, the fourth respondent contended that there are absolutely no merits in this writ petition and that the same is liable to be dismissed by this Court.

9.In the considered view of this Court, the dispute that has been raised before this Court is purely civil in nature. It seems to be a dispute between two agents namely Mr.N.Jeyachandran and the fourth respondent. That apart, the alienation that was already made, is now the subject matter of a challenge in the suit in O.S.No.10 of 2020. During this *inter se* dispute, the petitioner has now filed the present writ petition as if the third respondent has committed illegality in this case with the connivance of the fourth respondent. This Court is not



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inclined to exercise its writ jurisdiction in this case. It is left open to the parties to agitate the dispute before the competent civil Court, wherein the suit is pending in O.S.No.10 of 2020. Except giving this clarity, no further orders can be passed in this writ petition.

10.This writ petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

10.11.2023
(2/2)

NCC : Yes / No
Index : Yes/No
Internet : Yes/No
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N.ANAND VENKATESH, J.

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