



W.P.(MD) No.11744 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.11744 of 2020

M.Soundrapandi

... Petitioner

Vs.

1.The District Collector,
O/o.District Collector,
Korampallam,
Thoothukudi.

2.The Superintendent of Police,
O/o. Superintendent of Police,
Korampallam,
Thoothukudi.

3.The Assistant Director,
Department of Mines and Minerals,
District Collector Office Campus,
Korampallam,
Thoothukudi.

4.The Inspector of Police,
Ottapidaram Police Station,
Ottapidaram,
Thoothukudi District.

... Respondents



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Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents to consider the petitioner's representations dated 23.05.2020, 04.06.2020 and 12.06.2020 and take appropriate action to remove the river sand illegally dumped in Re.S.No.151/1 in Sinthalakattai Village at Ottapidaram Taluk, Thoothukudi District.

For Petitioner : Mr.N.Ramesh Arumugam

For Respondents : Mr.R.Ragavendran
Government Advocate

ORDER

This writ petition has been filed for a direction to the respondents to consider the petitioner's representations dated 23.05.2020, 04.06.2020 and 12.06.2020 and take appropriate action to remove the river sand illegally dumped in Re.S.No.151/1 in Sinthalakattai Village at Ottapidaram Taluk, Thoothukudi District.

2. It is the case of the petitioner that the property measuring an extent of 1 acre and 34 cents in R.S.No.151/1 was in the name of his



W.P.(MD) No.11744 of 2020

brother and was being enjoyed by them. Since there was no possibility of joint possession, the brother and the petitioner had resolved to partition the joint family property including Survey No.151/1. On 24.12.2019, an unregistered family arrangement was entered into and the above property was allotted to his share. Since his brother Jeyaraj had refused to enter the partition, he had filed a civil suit in O.S.No.86 of 2020 before the Sub Court, Tuticorin seeking declaration and the same is still pending. Meanwhile, the lessee, who was in possession of the property, namely, one Murugan has wound up his business and handed over the possession to the petitioner. When he visited the property on 23.05.2020, his brother Jeyaraj and his wife came over and said that they owned the property.

3. It is the further case of the petitioner that the said Jeyaraj had illegally dumped river sand in the property. He had sent representation to the third respondent on 23.05.2020 with the copy to the first respondent informing them about the dumping of illegal river sand. Since no action was taken, he made a representation to the Assistant Superintendent



W.P.(MD) No.11744 of 2020

(Vigilance and Anti-Corruption), Thoothukudi. There was no response to the same. Since none of the respondents were coming forward to take action, the petitioner has moved this Court.

4. Heard the learned counsel appearing on either side.

5. There is no proof to show that the petitioner is the owner of the property in question and his partition right has been infringed. A mere perusal of the facts stated in the affidavit filed in support of the writ petition would clearly show that this is purely a dispute between the brothers with reference to ownership and the issue has to be resolved by a civil Court and not by invoking the provisions of Article 226 of the Constitution of India. Hence, this writ petition is dismissed. No costs.

08.06.2023

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



W.P.(MD) No.11744 of 2020

WEB COPY

To

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P.T.ASHA, J.

cp

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