



WP(MD)No.12249 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **19.10.2023**

CORAM

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.(MD)No.12249 of 2021

Chinnaalagarsamy

...Petitioner

/Vs./

1.The District Collector,
Madurai District,
Madurai.

2.The Superintendent of Police,
Madurai District,
Madurai.

3.The Assistant Director of Survey,
District Survey Office,
Collectorate Buildings,
Madurai.

4.The Tahsildar,
Peraiyur Taluk Office,
Peraiyur, Madurai District

5. Sabin

...Respondents

PRAYER:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the 4th respondent to comply the proceedings of the 3rd respondent in Na.Ka.A4/1850/2021 dated 01.04.2021 and consequently direct the 4th respondent to remove the illegal fencing made by the 5th respondent based on the petitioner's representation dated 24.03.2021 within time frame fixed by this Court.



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For Petitioner : Mr.T.Vadivelan
For R1, R3 & R4 : Mr.K.S.Selvaganesan
Addl. Govt. Pleader
For R2 : Mr.R.Sivakumar
Government Advocate

ORDER

This writ petition has been filed for issuance of writ of mandamus directing the fourth respondent to comply with the proceedings of the third respondent dated 01.04.2021 and consequently, to remove the illegal fencing put up by the 5th respondent.

2. Heard Mr.T.Vadivelan, learned counsel for the petitioner, Mr.K.S.Selvaganesan, learned Additional Government Pleader for the respondents 1, 3 and 4 and Mr.R.Sivakumar, learned Government Advocate for the second respondent.

3. The case of the petitioner is that the subject property belongs to the petitioner and his brothers and patta has also been issued in their names. The property was mortgaged for taking a loan from the 5th respondent. According to the petitioner, the 5th respondent had created bogus sale deed in his favour with respect to the property. Hence a suit was filed in O.S.No.122 of 2014 before the



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District Munsif cum Judicial Magistrate Court, Peraiyur by the petitioner and his brothers seeking for the relief of declaration and permanent injunction.

4. The grievance of the petitioner is that the 5th respondent illegally encroached upon the property by putting up fencing. A complaint was made before the third respondent in this regard and ultimately, a direction was issued to the 4th respondent to take action. Since the same was not complied with, the present writ petition has been filed before this Court.

5. In the considered view of this Court, there is already a comprehensive suit pending in O.S.No.122 of 2014 before the District Munsif cum Judicial Magistrate Court, Peraiyur. In view of the same, the official respondents cannot interfere with the dispute and it will be left open to the petitioner to seek for appropriate remedy before the concerned Court. Except giving this clarity, no further orders cannot be passed in this writ petition.

6. This writ petition is disposed in the above terms. No costs.

19.10.2023

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

N.ANAND VENKATESH, J.



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Order made in
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