



W.P.(MD)No.20351 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.20351 of 2014

and

M.P.(MD)No.2 of 2014

R.Rajakannu

... Petitioner

versus

1. The District Collector,
Madurai District,
Madurai.

2. The Revenue Divisional Officer,
Usilampatti,
Madurai District.

3. K.Marimuthu

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records relating to the 2nd respondent in his proceedings Na.Ka.No. 5270/2014/A4, dated 17.10.2014 and quash the same.



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For Petitioner : Mr.PT.S.Narendra Vasan
For R1 and R2 : Mr.S.Shaji Bino,
Special Government Pleader
For R3 : Mr.M.Muthugeethayan

ORDER

This writ petition is filed as against the order of the second respondent dated 17.10.2014 preventing the petitioner from blocking the drainage water in Survey No.9/1C2 situated at Jothimanickam Village, Usilampatti Taluk, Madurai District.

2. The learned counsel for the petitioner submits that the petitioner's father Rama Thevar purchased the lands to an extent of 1 acre 77 cents in Survey Nos.9/1A1, 9/1A2A, 9/1A2B, 9/1B, 9/1C1A, 9/1C1B and 9/1C2 at Jothimanickam Village, Usilampatti Taluk, Madurai, from one Nagathayee on 12.03.1952. The petitioner and his brother partitioned the family properties by a partition deed dated 18.09.1980 and the above properties are allotted to the share of the petitioner and from the date of partition, he is in possession and



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enjoyment of the properties. According to the petitioner, one R.Karuppa Thevar, who has nothing to do with the above properties, executed a settlement deed to Boodan Board as if he is the owner in respect of the property to an extent of 80 cents out of 1 acre 77 cents. Further, the third respondent, with an ulterior motive, made a representation to the second respondent as if the petitioner encroached the land in S.No.9/1C2 and not to allow him to drain the waste water and therefore, requested him to remove the encroachment. Based on the said representation, the second respondent, without issuing notice to the petitioner, made spot inspection on 14.10.2014 and passed the impugned order dated 17.10.2014 that the land in survey No.9/1C2 to an extent of 0.04.50 hectares, belonged to State Boodan Board and thereby, preventing the petitioner from blocking the drainage water in Survey No.9/1C2. Aggrieved over the same, the present writ petition has been filed.



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3. The learned counsel appearing for the petitioner further submits that the petitioner has also filed a suit in O.S.No.227 of 2014 before the District Munsif Court, Usilampatti, seeking the relief of declaration and permanent injunction, with regard to the property in Survey No.9/1C2 and the same is still pending.

4. The learned Special Government Pleader appearing for the respondents 1 and 2, by referring the counter affidavit filed by the second respondent submits that the land in Survey No.9/1C2 to an extent of 0.40.50 hectare belonged to State Boodan Board and therefore, the petitioner is not having any right over the property.

5. This Court considered the rival submissions made and perused the materials placed on record.

6. Since the petitioner has already filed the suit in O.S.No.227 of 2014 before the District Munsif Court, Usilampatti, for the relief of



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declaration and permanent injunction with regard to the property in Survey No.9/1C2, the writ petition is disposed of with liberty to the petitioner to work out his remedy before the District Munsif Court, Usilampatti, in O.S.No.227 of 2014.

7. Considering the fact that the suit is pending from the year 2014, the District Munsif Court, Usilampatti, is directed to dispose of the suit in O.S.No.227 of 2014 within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

09.03.2023

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

To

1. The District Munsif Court,
Usilampatti.



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