

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :30.03.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.16048 of 2016

Sankar

... Petitioner

Vs.

1.The District Collector,
Tiruchirappalli District,
Tiruchirappalli.

2.The Block Development Officer (Panchayats)
Manapparai Panchayat Union,
Manapparai.

3.Eswari

4.The Assistant Engineer,
Tamil Nadu Generation and Distribution Corporation,
Vaiyampatti (South), Manapparai Taluk,
Tiruchirappalli District.

5.The Village Administrative Officer,
Chettiyapatti Village, Manapparai Taluk,
Tiruchirappalli District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents 1 and 2 to consider the petitioner's representations dated 29.02.2016 and

19.04.2016 given to the respondents 1 and 2 to remove the Indira Memorial Shelter constructed by the third respondent in Survey No.164/2 of Chettiyapatti Village, Manapparai Taluk, Tiruchirappalli District with the monetary assistance of the respondents 1 and 2.

For Petitioner :Mr.S.T.M.Madasamy

For Respondents :Mrs.D.Farjana Ghoushia
Special Government Pleader
for RR1, 2 and 5
Mr.S.Deenadhayalan
for R4
No-appearance for R3

ORDER

The petitioner seeks a direction for consideration of the representations dated 29.02.2016 and 19.04.2016 for removal of the Indira Memorial Shelter constructed by the third respondent in Survey No.164/2, Chettiyapatti Village, Manapparai Taluk, Tiruchirappalli District.

2. The petitioner asserts that his father owned property of an extent of 1.95.0 hectares in Survey No.164/2. It is stated that the said property was owned jointly by his father and his uncles, Raman and Chinnan. According to the petitioner, one Palani, who is the owner of the

adjacent lands, constructed a house in the name of his daughter, Eswari, by getting financial assistance from the second respondent under Indira Memorial Shelter Scheme. After submitting representations on 29.02.2016 and 19.04.2016, the present writ petition is filed.

3. Upon receipt of notice, the third respondent entered appearance through counsel previously. However, both at the hearing on 16.03.2023 and at today's hearing, there is no representation for the third respondent.

4. Learned Special Government Pleader for respondents 1, 2 and 5 submits that the relevant lands are admittedly private lands and not Government lands. Consequently, she submits that the petitioner should institute an appropriate proceeding before the jurisdictional civil court, if the third respondent has constructed a house on the petitioner's property.

5. The petitioner has placed on record a joint patta in the names of Raman, Velaichamy and Chinnan in respect of several survey numbers including Survey No.164/2, which is the survey number in respect of which

this writ petition has been instituted. From the averments in paragraph No.2 of the affidavit filed in support of the writ petition, it appears that the grievance of the petitioner is that an adjoining land owner, namely, Palani, has constructed a house on the petitioner's land by availing financial assistance from the second respondent under the Indira Memorial Shelter Scheme. In view of the said assertion, it appears that the dispute is a title dispute relating to the ownership of Survey No.164/2. Such dispute should be decided by the jurisdictional civil court and not by the respondents herein.

6. For reasons set out above, W.P(MD).No.16048 of 2016 is disposed of by leaving it open to the petitioner to approach the jurisdictional civil court in respect of the title dispute with Palani or his daughter Eswari. There shall be no order as to costs.

30.03.2023

NCC :No
Internet :Yes
Index :No
ssb

To

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SENTHILKUMAR RAMAMOORTHY, J.

ssb

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