



WEB COPY



W.P.No.6962 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.6962 of 2021

and

W.M.P.No.7509 of 2021

Karpagam

... Petitioner

Vs.

1.The District Collector,
Tiruvallur District,
Tiruvallur – 602 001.

2.Hindustan Petroleum Corporation Limited,
Petrol Products Company,
No.82, Petrol Bhavan,
TTK Road, Alwarpet,
Chennai – 600 018.

3.Maragatham

4.G.Elumalai

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the 2nd respondent from running any petrol bunk at the site namely 29 cents comprised in S.No.331/5B1 situated at Pullarambakkam Village, Thiruvallur Taluk, Thiruvallur District or any outlet thereof through the respondents 3 and 4.



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For Petitioner : Mr.D.Ashok Kumar
For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader [R1]
Mr.Mohammed Fayaz Ali [R2]
Mr.Imayavarman
for M/s.Ramasubramaniam &
Associates [R3]

ORDER

This Writ Petition has been filed seeking for a Writ of Mandamus, to forbear the 2nd respondent from running any petrol bunk at the site namely 29 cents comprised in S.No.331/5B1 situated at Pullarambakkam Village, Thiruvallur Taluk, Thiruvallur District or any outlet thereof through the respondents 3 and 4.

2. The case of the petitioner is that, her husband namely Seethapathi was the owner of the property in Survey No.331/1 and 15 others to an extent of 3.42 $\frac{1}{4}$ cents. Whilso, without any authority, the 3rd respondent entered a lease with the 4th respondent, who in turn made an application before the District Collector for issuance of NOC for setting up a petrol bunk with the permission of the 2nd respondent and the respondents 1 and 2 have granted permission to establish petrol bunk in



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favour of the 4th respondent in the land owned by the petitioner. Aggrieved by the same, the petitioner has filed the present writ petition before this court.

3. Learned counsel appearing for the petitioner submits that, the petitioner's husband, namely Seethapathi and one Ekambaram are brothers and they have executed gift deeds in favour of their wives, viz., the petitioner and the 3rd respondent herein. However, the 3rd respondent is not entitle for any land in Survey No.331/5B1. As per the settlement deed, the 3rd respondent entitled only for 30 cents and the remaining 29 cents belongs to the petitioner, however, suppressing the same, she entered a lease deed in favour of the 4th respondent, which is wholly unsustainable. Accordingly, he prays for appropriate orders.

4. Per contra, learned counsel appearing for the 2nd respondent submitted that it is purely a property dispute in between the petitioner and the 3rd respondent and the same has to be ventilated only before the civil court, not before this court under Article 226 of Constitution of India. He further submitted that the said petrol bunk is running from the year 2021 onward, therefore, at a later of point, this court cannot decide the title



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dispute in between the petitioner and the 3rd respondent. Accordingly, he prays for dismissal of the writ petition.

5. It appears that there is a property dispute in between the petitioner and the 3rd respondent, which has to be ventilated only before the competent civil court. Without doing so, filing the present writ petition is *per se* unsustainable and the title dispute in between the petitioner and the 3rd respondent cannot be decided by this court. Hence, this court grants liberty to the petitioner to workout the remedy before the competent civil court as against the 3rd respondent in the manner known to law.

6. According, this writ petition is dismissed with the above liberty. No costs. Consequently, the connected writ miscellaneous petition is closed.

01.10.2024

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp



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M.DHANDAPANI, J.

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