



W.P.No.7337 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No. 7337 of 2024

and

W.M.P.No.8223 of 2024

S.Ganesan

... Petitioner

versus

1.The District Collector,
Cuddalore District,
Cuddalore – 607 001.

2.The Revenue Divisional Officer/
Sub Collector,
Virudhachalam – 606 001,
Cuddalore District.

3.The Tasildhar,
Virudhachalam Taluk,
Virudhachalam – 606 001,
Cuddalore District.



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4.The Block Development Officer,
Kammapuram Panchayat Union,
Kammapuram – 606 103,
Virudhachalam Taluk,Cuddalore District.

5.The Village President,
Irulakurichi Village,
Virudhachalam Taluk,
Cuddalore District,Pincode – 606 115.

6.The Village Administrative Officer,
Irulakurichi Village,
Virudhachalam Taluk,
Cuddalore District,
Pin Code – 606 115.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents and their agents from in any manner constructing Fair Price Shop building or any other building in the village natham house site in S.No.5/2, Poondiyankuppam Village, Virudhachalam Taluk, Cuddalore District, belongs to the petitioner and his family members without acquiring the said house site as per the provisions of the Land Acquisition Act.

For Petitioner : Mr.P.Mani

For Respondents : Mr.T.Arun Kumar
Additional Government Pleader
for R1 to R3 and R6



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Mr.T.Venkatesh Kumar
Special Government Pleader
for R4 and R5

ORDER

Mr.T.Arun Kumar, learned Additional Government Pleader accepts notice for respondents 1 to 3 and 6 and Mr.T.Venkatesh Kumar, learned Special Government Pleader accepts notice for respondents 4 and 5. With the consent of both the parties, the writ petition is taken up for final disposal at the admission stage itself.

2.This writ petition has been filed seeking for issuance of a writ of mandamus, forbearing the respondents and their agents from in any manner constructing Fair Price Shop building or any other building in the village Natham house site in S.No.5/2, Poondiyankuppam Village, Virudhachalam Taluk, Cuddalore District, that belongs to the petitioner and his family members, without acquiring the said house site as per the provisions of the Land Acquisition Act.

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3. The learned counsel for the petitioner submitted that the petitioner's father purchased the subject property from one Veerasamy and others, vide registered sale deed dated 17.11.1976 and since then, the petitioner and his father are in possession and enjoyment of the same. While that being so, during Natham re-survey, Patta in respect of the subject property has been wrongly issued in the name of Arulmigu Mariyamman Temple with Sub Division No.5/2. Since the persons, who managed the said Temple attempted to interfere with their peaceful possession, the petitioner's father filed a suit in O.S.No.921 of 2004 on the file of the Principal District Munsif Court, Virudhachalam for declaration and permanent injunction and the same was dismissed on 16.04.2007. As against the same, the petitioner's father filed an appeal in A.S.No.32 of 2010 on the file of the Additional Sub Court, Virudhachalam and the same was dismissed on 12.01.2012. Challenging the same, the petitioner's father filed Second Appeal in S.A.No.256/2016 before this Court. During the pendency of the Second Appeal, the petitioner's father



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died on 23.01.2020 and the petitioner has been impleaded as a legal representative of the deceased appellant therein and the Second Appeal is pending before this Court.

4. The learned counsel for the petitioner further submitted that when the civil dispute is pending between the petitioner and the local Temple with respect to the land in question, the respondents ought not to have attempted to trespass into the petitioner's private land and construct Fair Price shop in the property. Hence, the petitioner issued a legal notice to respondents requesting them not to construct building in the property and has also given several representations to the third respondent. Despite the repeated requests, the respondents made attempts to construct the building, and hence, the petitioner has filed the present writ petition.

5. Heard both sides and perused the materials available on record.

6. It is seen from the records that the petitioner's father has already filed a civil suit in O.S.No.921 of 2004 on the file of the Principal District



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Munsif Court, Virudhachalam, where he has lost his title over the subject property. Aggrieved by the same, the petitioner's father preferred an appeal in A.S.No.32 of 2010 and the same was dismissed. Though the petitioner and his father have lost their title over the subject property in the civil suit itself and also in the appeal suit and the Second Appeal is still pending, since the title of the petitioner has not been declared by the competent Civil Court, the petitioner is not entitled to get the relief as sought for in this writ petition. However, liberty is granted to the petitioner to work out his remedy in the Second Appeal pending before this Court.

7. In view of the above, this writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking Order : Yes/No

Neutral Citation Case : Yes/No

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P.VELMURUGAN, J.

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