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W.P.No.20259 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.No.20259 of 2024

and

W.M.P.No.22169 of 2024

in

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M.Munusamy
S/o.Malayalathan

.. Petitioner

Vs.

1. The District Collector
Pondicherry.
2. The Commissioner cum Estate Officer
Ariyankuppam Commune Panchayat
Ariyankuppam, Pondicherry.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus forbearing the respondents 1 and 2 from in anyway interfering with the peaceful possession of the petitioner's property comprised in R.S.No.138/3 and R.S.No.138/9 of Poorankuppam Revenue Village measuring an extent of 0.01.63 Hectares in any manner particularly by way of dispossession from the same, pending final determination of the petitioner's statutory appeal pending



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under Section 252(1) of the Pondicherry Village and Commune Panchayat Act, 1973 before the Hon'ble Principal District Court at Pondicherry vide M.A.No.3 of 2023.

For Petitioner : Mr.D.S.Rajasekaran
For Respondents : Mr.V.Vasanthakumar
Additional Government Pleader
(Puducherry)

ORDER

(Order of the Court was made by **M.Sundar, J.**)

Captioned 'Writ Petition' {hereinafter 'WP' for the sake of brevity'} has been filed with a mandamus prayer qua 'property comprised in R.S.Nos.138/3 and 138/9 in Poorankuppam Revenue Village in Puducherry, admeasuring an extent of 0.01.63 hectares' {hereinafter 'said land' for the sake of brevity and convenience}.

2. Mr.D.S.Rajasekaran, learned counsel on record for writ petitioner submits that writ petitioner was visited with an 'order dated 28.04.2023 bearing reference No.20-70/2022-23/Rev/ACP made by R2 (the Commissioner cum Estate Officer, Ariyankuppam Commune Panchayat, Ariyankuppam, Pondicherry.)' {hereinafter 'impugned order'}



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for the sake of brevity} under Section 248 of 'the Puducherry Village and Commune Panchayats Act, 1973 (No.10 of 1973)' {hereinafter 'said Act' for the sake of convenience and brevity}; that writ petitioner has preferred a Statutory appeal assailing the impugned order; that Statutory appeal is M.A.No.3 of 2023 on the file of Principal District Judge's Court at Puducherry; that writ petitioner has filed interlocutory application/s *inter alia* vide I.A.No.1894 of 2023 in M.A.No.3 of 2023 seeking stay; that on 22.08.2023, learned standing counsel for R2 before us (respondent before District Court) gave an undertaking to not to proceed further and this was recorded but writ petitioner continues to be under the pain of removal.

3. Issue notice regarding admission to respondents.

4. Mr.V.Vasanthakumar, learned Additional Government Pleader (Union Territory of Puducherry) accepts notice for both respondents.

5. Mr.M.Gnanasekar, learned counsel, who is present in Court submits that he represents Mr.Swaminathan and Mr.Swaminathan has



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filed a implead petition in District Court in aforementioned M.A.No.3 of 2023 and that Swaminathan is owner of adjacent land qua said land.

6. Owing to the limited legal perimeter of the captioned WP, with the consent of all three learned counsel, main WP was taken up in the Admission Board.

7. We find from submissions before us that there is no dispute, disagreement or contestation as regards pendency of Statutory appeal i.e., M.A.No.3 of 2023 on the file of Principal District Judge's Court, Puducherry or pendency of interlocutory application/s for stay thereat and / or pendency of implead petition by Swaminathan, who is being represented by Mr.M.Gnanasekar.

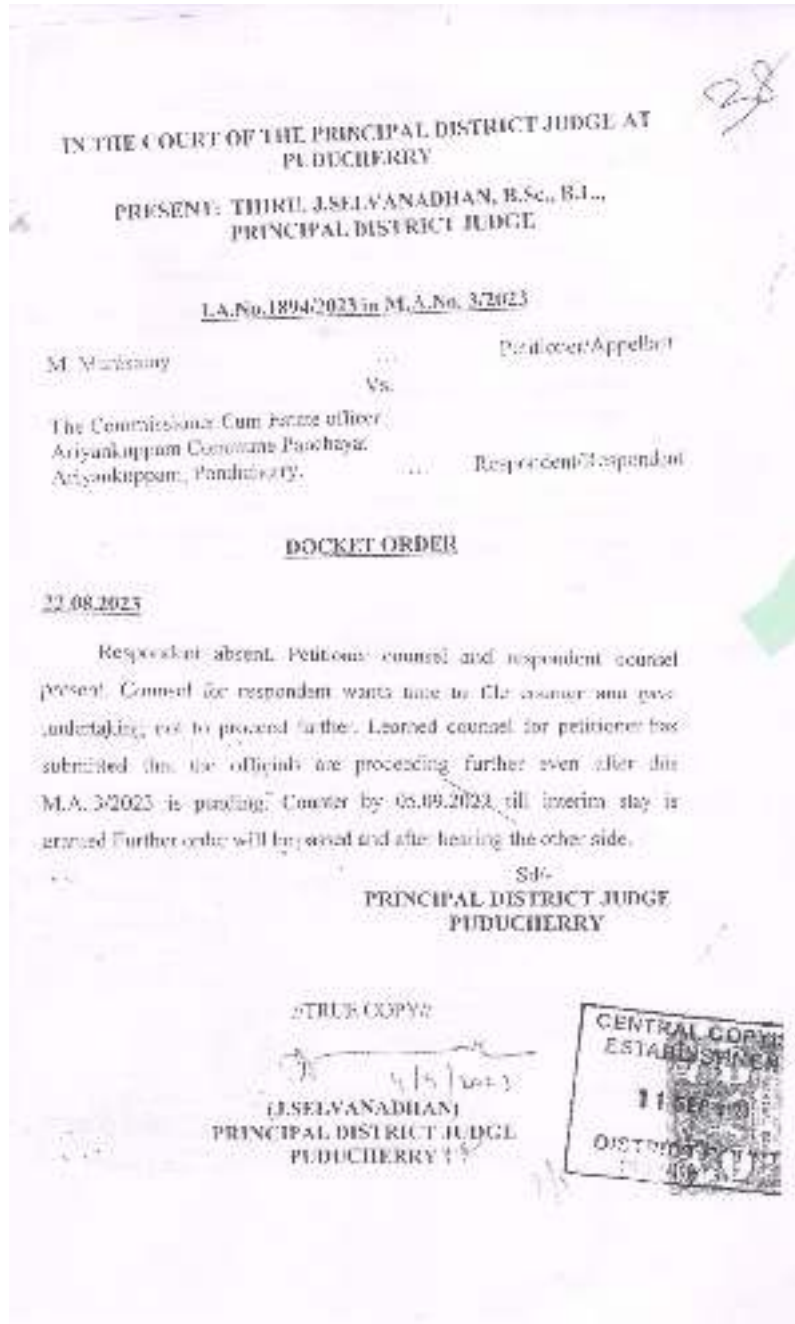
8. Aforementioned interlocutory application/s, implead application and / or the main appeal has to be heard out by learned Principal District Judge, Principal District Court, Puducherry, on its own merits and in accordance with law.

9. Learned State counsel for respondent fairly submits that undertaking given by counsel for R2 (sole respondent before District Court) has been recorded vide judicial order dated 22.08.2023 and



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therefore, the same has to be adhered to until varied, vacated or modified. To be noted, a scanned reproduction of this judicial order dated 22.08.2023 is as follows:





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10. In the aforementioned view of the matter, we make it clear that if the District Court takes up the stay application, the stay application will be heard out on its own merits *de hors* undertaking and *de hors* the order that has been made by this Court. This will apply to implead petition of Swaminathan also. It is open to the District Judge to take up the main appeal subject to Board of that Court and subject to work before District Court as all three learned counsel agree that parties would be ready to have the main appeal heard out if it is taken up.

11. In the light of the narrative thus far, captioned WP is disposed of recording the stated position of parties, more particularly stated position of learned State counsel for respondent leaving open all questions, all contentions for being agitated / raised before District Court in M.A.No.3 of 2023 and interlocutory applications thereat. Though obvious, we make it clear that we have not expressed any view or opinion on the merits of the matter.



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Captioned WP is disposed of as closed albeit with the
aforementioned observations, recording of stated position of learned
State counsel and preservation of rights in the aforesaid manner.
Consequently, captioned Writ Miscellaneous Petition is disposed of as
closed. There shall be no order as to costs.

(M.S.J.) (K.G.T.J.)
22.07.2024

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

mk

To

1. The District Collector
Pondicherry.
2. The Commissioner cum Estate Officer
Ariyankuppam Commune Panchayat
Ariyankuppam, Pondicherry.



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M.SUNDAR.J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

mk

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