



W.P.No.35388/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

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R.Sadhasivam

... Petitioner

Vs.

1.The Union of India rep.by
The Chief Secretary to Government
of Puducherry, Puducherry.

2.The Member Secretary
Puducherry Planning Authority
Jawahar Nagar, Boomianpet
Puducherry.

3.MRF Company Private Limited
rep.by its General Manager
No.01, MRF Office Building
Nattamedu Road, Nettapakkam
Pondicherry 605106.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India
for issuance of Writ of mandamus, directing the respondents to conclude



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and pass appropriate final orders in the enquiry initiated through notice dated 23.08.2023 vide No.4538/PPA/Z[NCP]/Petition/JTP[SG]/2023 based on petitioner representation dated 18.08.2023 in connection with petitioner request for taking action against the unauthorised construction within time frame to be fixed by this Court.

For Petitioner : Mr.D.Ilamparithi

For Respondents : Mr.J.Kumaran, AGP [Puducherry]

ORDER

[Order of the Court was made by S.S.SUNDAR, J.,]

- (1)The present writ petition has been filed by the petitioner seeking a direction to the respondents to pass orders pursuant to the Enquiry Notice dated 23.08.2023 vide Ref.No. 4538/PPA/Z[NCP]/Petition/JTP[SG]/2023 based on the petitioner's representation dated 18.08.2023.
- (2)Mr.J.Kumaran, learned Additional Government Pleader [Puducherry] accepts notice on behalf of the respondents.
- (3)The case of the petitioner is that an extent of 3 Kani 49 Kuzhis and 13 Veeram of land comprised in different survey numbers belonged to the petitioner's great grandfather by name Thiru.Thadavaraya Gounder and



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his paternal grandfather succeeded to the property. Though the petitioner admits that his grandfather sold a portion of property to an extent of 23 1/4 kuzhi in favour of one Anjalaiammal through a Sale Deed dated 19.11.1965, it is the further case of the petitioner that the remaining extent of about 23 1/4 kuzhi of land in the same survey fields was retained by his grandfather. The petitioner has given a representation on 18.08.2023 to the 2nd respondent requesting the 2nd respondent to take appropriate action against the 3rd respondent for unauthorised construction. Pursuant to the representation, it appears that the 2nd respondent also has issued a Notice inviting the petitioner for a joint inspection. It is at that stage, the present writ petition has been filed by the petitioner seeking further action.

(4)The case of the petitioner is that the 3rd respondent has put up unauthorised construction by encroaching into the property of the petitioner. From the photographs annexed in the typed set of documents, the construction appears to be old and the question regarding title has been raised. No notice is issued by the petitioner when the construction was put up by the 3rd respondent. It is in the said circumstances, it would



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be appropriate for the petitioner to approach the competent Civil Court to establish his rights as the Civil Court alone is competent to grant further relief to the petitioner to recover possession.

(5) This Court is of the view that it is not desirable to direct the 2nd respondent to decide the question of title which is the main issue raised by petitioner. Assuming that the construction is not in accordance with the Building Rules, having regard to the fact that the petitioner has not averred about any personal injury on account of the construction being not in accordance with Building Rules and his grievance is about the encroachment in his own land, leaving it open to the petitioner to approach the Civil Court for appropriate and effective relief, this Court is inclined to dismiss the writ petition.

(6) Accordingly, the writ petition stands **dismissed**. No costs.

[S.S.S.R., J.] [N.S, J.]
02.01.2024

AP

Internet : Yes



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To

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Puducherry.
2. The Member Secretary
Puducherry Planning Authority
Jawahar Nagar, Boomianpet
Puducherry.
3. The General Manager
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