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W.P.(MD) No.10245 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD) No.10245 of 2021
and
W.M.P.(MD) No.7936 of 2021**

A.Gnana Thiraviya Swamy
@ A.G.T.Swamy
Secretary
Anna Aided Middle School
Muthalapuram, Poosaripatti
Dindigul District

... Petitioner

-VS-

1.The District Collector
Dindigul District

2.The Executive Officer
Sevgumpatti Panchayat
Dindigul District

3.Kaveriammal

4.Manjula Devi
[R4 is impleaded vide Court order
dated 31.08.2021 in W.M.P.(MD)
No.11233 of 2021]

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus forbearing the second respondent not to grant any building permission to the third respondent to make construction in the site in S.No.1282/1 in Sevugampatti Village in Nilakottai Taluk, in Dindigul District and to remove her illegal construction therein forthwith.

For Petitioner : Mr.R.Suriya Narayanan

For Respondents : Mr.T.Amjad Khan
Government Advocate for R1 & R2
Mr.M.Gurudas for R3
Mr.K.Pratap Sudarsan for R4

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Prayer in this writ petition is to forbear the second respondent not to grant any building permission to the third respondent to make construction in the site in S.No.1282/1 of Sevugampatti Village, Nilakottai Taluk, Dindigul District and to remove her illegal construction therein, forthwith.

2. According to the petitioner, he is the Secretary of Anna Aided Middle School, Muthalapuram in Dindigul District. The School has its own



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building and properties in Old Survey No.845 and New Survey Nos.1281/1 and 3 in Sevugampatti Vilalge, Nilakottai Taluk. The said School is in occupation of a Poramboke land in Survey No.1282/1 for conducting meetings therein. The third respondent is trying to trespass into the said land by claiming that the said land is her husband's patta land. Hence, the petitioner filed a suit in O.S.No.267 of 2012, against the third respondent, for permanent injunction, on the file of the District Munsif Court, Nilakottai. Pending the said suit, on 18.02.2013, the petitioner made an application to the Tahsildar, Nilakottai, to cancel the Patta granted in respect of the said land. However, the Tahsildar, by order dated 07.07.2015, rejected the petitioner's request. Challenging the same, the petitioner has filed W.P.(MD) No.12375 of 2015. Though an order of *status quo* was granted by this Court in the said writ petition, the third respondent has made a fence over the said land and is trying to make construction without getting the necessary permission from the authority concerned. Seeking to stop the construction work made by the third respondent, on 08.06.2021, the petitioner made a representation to the second respondent. However, no action was taken by the third respondent based on the petitioner's representation. Hence, this writ petition.



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3. Learned counsel for the third respondent, on instructions, submits that the petitioner has no basis or any material to establish his right over the subject land. Since the petitioner has filed this writ petition, the request made by the third respondent for planning permission is still pending with the second respondent. The petitioner, without making any objection before the second respondent, has straightaway filed this writ petition and the same is therefore liable to be dismissed.

4. Considering the facts and circumstances of the case, we are of the view that the prayer sought for in this writ petition is only a blanket prayer. The second respondent, against whom a direction is sought for by the petitioner not to grant planning permission to the third respondent, is the competent authority to grant such a permission. It is seen that there is no material to show that the petitioner has filed any objection before the second respondent prior to the filing of this writ petition. Hence, on these grounds, we are not inclined to entertain this writ petition.



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5. Accordingly, this writ petition is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

[D.K.K., J.]

[R.V., J.]

25.03.2024

(1/2)

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

- 1.The District Collector,
Dindigul District.
- 2.The Executive Officer,
Sevgumpatti Panchayat,
Dindigul District.



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and
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