



W.P(MD)No.203 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2024

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.203 of 2024

and

W.M.P(MD)No.228 of 2024

Thangavel

... Petitioner

-Vs-

- 1.The District Collector,
Collectorate Office,
Pudukkottai,
Pudukkottai District.
- 2.The Revenue Divisional Officer,
Revenue Divisional Office,
Karambakudi Taluk,
Pudukkottai,
Pudukkottai District.
- 3.The Tashildar,
Karambakudi Taluk,
Pudukkottai,
Pudukkottai District.
- 4.The Block Development Officer,
Panchayath Union Office,
Karambakudi Taluk,
Pudukkottai,
Pudukkottai District.



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5.The Village Administrative Officer,
Malaiyur Village Administrative Office,
Malaiyur,
Karambakudi Taluk,
Pudukkottai District.

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus forbearing the respondents from cutting the life trees reared by the petitioner and constructing the permanent drama stage in S.No.150/15 of Natham property till the final adjudication of O.S.No.336/2019 on the file of the Principal Sub Court, Pudukkottai by considering the petitioner's representation.

For Petitioner : Mr.R.Paranjothi for
M/s KBS Law Office

For Respondents : Mr.SRA.Ramachandran
Addl. Govt. Pleader (for R1 to R3 & R5)
Mr.C.Baskaran
Govt. Advocate (for R4)

ORDER

This writ petition is filed seeking for issuance of a Writ of Mandamus forbearing the respondents from cutting the life trees reared by the petitioner and constructing the permanent drama stage in S.No.150/15 of Natham property till the final adjudication of O.S.No.336/2019 on the file of the Principal Sub Court, Pudukkottai by considering the petitioner's representation.



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2.The case of the petitioner is that he is residing in a house situated in SF No.150/14 at Malaiyur Village, Karambakudi Taluk, Pudukkottai District. In front of his house, SF No.150/15 is situated. He has been using the aforesaid SF No.150/15 as a front yard. He has also used a small portion of SF No.150/15 and planted and reared many trees in this area. Due to enmity between some private respondents, the petitioner was constrained to file a suit in O.S.No.336 of 2019 in respect of the subject matter property. While so, the third respondent/Tahsildhar issued notice of eviction from the afore said SF No.150/15. Challenging the same, he has filed W.P(MD)No. 267 of 2020. This Court, vide order dated 07.01.2020, set aside the eviction notice and directed the petitioner to treat the impugned notice of eviction dated 16.12.2019 as show case notice and give reply to the same within two weeks. This Court further directed the third respondent/Tahsildar to pass necessary orders in accordance with law. Thereafter, the petitioner has submitted his explanation to the third respondent, however, till date, the third respondent has not passed any order as directed by this Court in W.P(MD)No.267 of 2020. Hence, the petitioner has filed another writ petition in W.P(MD)No.7500 of 2020 forbearing the respondents therein from interfering with the petitioner's Hollow Block Production Place in



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S.F.No.150/15. This Court vide order dated 07.07.2021 dismissed the said writ petition, however, granted liberty to the petitioner to approach the competent civil Court. Taking advantage of the dismissal of the writ petition in W.P(MD)No.7500 of 2020, the third respondent/Tahsildar demolished his shed. Hence, the petitioner has filed a contempt petition, however, it has not been numbered. While so, the respondents are attempting to put a drama stage in front of his house. Though the suit in O.S.No.336 of 2019 is pending, a cement road was also formed in front of the petitioner's house by the official respondents.

3. It is seen that the petitioner herein has already filed a writ petition in W.P(MD)No.267 of 2020 challenging the eviction notice dated 16.12.2019 issued by the Tahsildar and this Court, by order dated 07.01.2020, directed the petitioner to treat the said eviction order as a show cause notice and give a reply to the same. Thereafter, the petitioner has filed another writ petition in W.P(MD)No.7500 of 2020 to forbear the respondents from interfering into his Hollow Block Production place. This Court after considering plea of the petitioner, dismissed the said writ petition with the following observations:-



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“10. The private respondents have also filed the additional typed set of papers showing the proceedings that have been taken on earlier occasions by the petitioner and the proceedings of the Revenue Divisional Officer, during the Peace Committee Meeting. Therefore, it is seen from the records that there is continuous trouble with regard to the possession of the property in S.F.No.150/15. In respect of which, a civil suit has also been filed by the petitioner before the Principal Sub Judge, Pudukottai. The orders have been passed directing the Revenue Officers to initiate action against the petitioner as per the Land Encroachment Act, 1905 for removing the encroachment. But so far, no action has been initiated. But, however, it is clear on record to show that the petitioner is in illegal occupation of the property. So, at this juncture, the request made by the petitioner for direction cannot be considered. If at all the petitioner ought to have taken such plea in the Writ Court or at least he should have made such plea before the Civil Court, before which a suit has been filed. Therefore, I find that there is no bonafideness on the part of the petitioner in this petition. However, the petitioner is at liberty to work out his remedy as per the law. When the disputed facts are involved, no writ of Mandamus can be issued.”



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4. Thereafter, one Periyathambi has filed a writ petition in W.P(MD)No.3562 of 2022 directing the respondent police to give permission to celebrate Maha Sivarathiri Festival in Arulmighu Muthumalaiyamman Temple, Kookaipuliyankollai Village, Karambakudi Taluk, Pudukkottai District to be held on 01.03.2022 and seeking further direction to the respondent police to provide police protection for the maha sivarathir festival and valli thirumana drama to be held on 01.03.2022 by considering his representation dated 15.02.2022. This Court, by order dated 25.02.2022 allowed the said writ petition by granting such permission. Thereafter, the petitioner has filed the present writ petition.

5. It is seen that the petitioner is not the owner of the land in SF No. 150/15 and it is a common land which has been used for the purpose of Annadhanam and other public purposes during the temple festival. The petitioner has encroached upon the property. Further, during the peace committee meeting in 2020, he has accepted to remove his Hollow Block Stone business for the temple festival. Thereafter, he occupied the land. In this regard, a civil suit is also pending. Hence, it is for the petitioner to



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work out his remedy before the competent civil Court regarding the prayer sought for in this writ petition.

6. In view of the above, this Court is of the view that the prayer sought for by the petitioner cannot be granted. Hence, this writ petition is **dismissed**. At this juncture, the learned counsel for the petitioner would submit that it would suffice if the representation of the petitioner dated 12.07.2023 may be considered on merits and in accordance with law. It is for the authorities to consider the petitioner's representation dated 12.07.2023 and pass appropriate orders on the same on merits and in accordance with law, after giving notice to the interested parties, if any, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is also dismissed.

05.01.2024

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



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V.BHAVANI SUBBAROYAN, J.

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