



W.P.(MD) No.593 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD) No.593 of 2025

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Petitioner

-VS-

- 1 The District Collector,
Collectorate,
Pudukkottai District.
- 2 The Revenue Divisional Officer,
Collectorate,
Pudukkottai District.
- 3 The Tahsildar,
Karambakudi Taluk,
Pudukkottai District.
- 4 The Block Development Officer,
Office of Block Development,
Karambakudi Panchayat Union,
Karambakudi Taluk,
Pudukkottai District.
- 5 Parimalam

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Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus, directing the respondents 4 and 5 to abstain from constructing any kind of building at the petitioner's patta land comprised in S.No.96/8, situated at Karu.Therkku Theru Karukkakurichi Post, Karambakudi Taluk, Pudukkottai District.

For Petitioner : Mr.K.C.Maniyarasu

For Respondents : Mr.A.Kannan,
Addl. Govt. Pleader.

ORDER

This Writ Petition is filed for a mandamus, directing the respondents 4 and 5 to abstain from constructing any kind of building in the petitioner's patta land comprised in S.No.96/8, situated at Karu.Therkku Theru Karukkakurichi Post, Karambakudi Taluk, Pudukkottai District.

2. According to the petitioner, the land in Survey No.96/8 to an extent of 11.00 Ares at Karu.Therkku Theru Karukkakurichi Post, Karambakudi Taluk, Pudukkottai District, belonged to his father and his brother and joint patta was issued in their name in patta No.552. After the



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demise of the petitioner's father, the petitioner and his brothers are in possession and enjoyment of the property. While so, in July,2024, the fifth respondent trespassed into the petitioner's property and tried to make certain constructions illegally. The fourth respondent engaged the fifth respondent to construct panchayat building, which is adjacent to the petitioner's land. On verification of FMB Sketch, the petitioner came to know that there was an error in FMB and, therefore, the petitioner sent a legal notice to the respondents on 27.07.2024. On 29.07.2024, the petitioner also made a representation to the District Revenue Officer, Pudukkottai, to rectify the correction in FMB. As the fifth respondent attempted to put up a construction with the aid of the fourth respondent, the petitioner filed a suit in O.S.No.283 of 2024, on the file of Principal Sub-Court, Pudukkottai, for permanent injunction. In the said suit, the petitioner also filed an interlocutory application in I.A.No.4 of 2024, for appointment of an Advocate Commissioner to inspect the property and file a report before the learned Judge. The said application was ordered and an Advocate Commissioner appointed. The Advocate Commissioner was directed to note down the physical features of Survey Nos.96/8 and 96/3, with the help of V.A.O., and Surveyor and file a report. Following the same, the Advocate Commissioner inspected the property on 21.12.2024 and noted down the physical features. Even before filing of



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report by the Advocate Commissioner, the fifth respondent was trying to complete the construction in the petitioner's land. Therefore, the petitioner sent a representation to the first respondent on 28.12.2024, to prevent the respondents 4 and 5 from putting up construction in the petitioner's land. As the petitioner's representation was not considered by the respondent, the petitioner filed the above Writ Petition for the aforesaid relief.

3. Admittedly, the petitioner has filed a suit in O.S.No.283 of 2024 on the file of Principal Sub-Court, Pudukkottai, for permanent injunction, against the respondents. The petitioner also filed an interlocutory application in I.A.No.4 of 2024 in the said suit for appointment of an Advocate Commissioner to inspect the suit property and file a report. The said application was ordered on 05.12.2024 and the Advocate Commissioner also inspected the suit survey nos.96/8 and 96/3 on 21.12.2024.

4. The petitioner has already approached the Civil Court and, therefore, the mandamus, as prayed for in this Writ Petition, cannot be granted. As the matter is seized of by the Civil Court, the petitioner has to avail the remedy before the said Civil Court. The Writ Petition, in my view, is sheer abuse of process of court, as the relief of injunction is couched as



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mandamus. As the petitioner has already approached the Civil Court, it is always open to the petitioner to seek the relief sought for herein, in the pending suit. I, therefore, find no merits in the Writ Petition.

5. Writ Petition is dismissed accordingly. No costs. Consequently, the connected W.M.P.(MD) No.403 of 2025 is closed.

09.01.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

dixit

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N.MALA, J.

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