

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.25963 of 2017

and

W.M.P.Nos.27542 and 27543 of 2017

S.Selvakumar

.. Petitioner

Vs.

1. The District Collector,
Namakkal District,
Namakkal - 637 002.

2. The Block Development Officer,
Village Panchayat,
Kill Hills Block,
Namakkal District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 04.09.2017 in Na.Ka.No.2171/2017/Thi.1, passed by the second respondent, quash the same and consequently forbear the respondents from in any way interfering with the petitioner's right of enjoyment over the Well in Old S.No.256/1, New.S.No.238/14, Puthur Patti Village, Vazhavanthi Nadu Panchayat, Namakkal District.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.S.Diwakar,
Special Government Pleader

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ORDER

The petitioner has come forward with this Writ Petition praying for issuance of a Writ of Certiorarified mandamus, to call for the records pertaining to the impugned order dated 04.09.2017 in Na.Ka.No.2171/2017/Thi.1, passed by the second respondent, and quash the same and consequently forbear the respondents from in any way interfering with the petitioner's

right of enjoyment over the Well in Old S.No.256/1, New.S.No.238/14, Puthur Patti Village, Vazhavanthi Nadu Panchayat, Namakkal District.

2. The case of the petitioner is that he has purchased the property, the subject matter of the writ petition and that he is in enjoyment of the property and that there are necessary entries in patta, adangal etc., and there was mutation in the record. The petitioner submitted that he had made a representation seeking permission from the first respondent for constructing a boundary wall on the ground level Well, which was damaged due to rain and that he has given an undertaking not to deepen the Well further. The petitioner has further stated that he was asked to submit a petition in prescribed format to the second respondent, which he made on 19.08.2017 along with necessary charges, which was drawn in favour of the Special Officer, Vazhavanthi Nadu Panchayat. The petitioner has stated that without hearing him, the second respondent has passed the impugned order dated 04.09.2017, which is the subject matter of the writ petition, preventing him from deepening the Well, until further instructions from the first respondent.

3. According to the petitioner, he has never sought permission for deepening the Well, and he has no intention for deepening the Well, and he wanted to put up the compound wall / parapet wall in the ground level Well, which is in existence was damaged. The impugned order proceeds on the basis that the petitioner has taken steps to deepen the Well, which has been directed to be stopped temporarily.

4. When the matter is taken up for hearing, the learned Special Government Pleader appearing for the respondents submitted that the respondents have no objection for constructing a parapet wall by the petitioner, but however, under the guise of the same, the petitioner shall not deepen the Well.

5. The learned counsel for the petitioner submitted that the petitioner's request is not to deepen the Well, but to put up a parapet wall and that he has also given an undertaking in paragraph 3 of the affidavit to that effect, which is extracted below:

"3. I submit that the recent rain has caused some damage to the boundaries of my ground level Well, which has been in existence in S.No.256/1 corresponding to new S.No.238/14. Therefore, I have submitted a representation dated 17.08.2017 to the first respondent seeking permission to construct the boundary wall of my ground level Well. Otherwise, the

soil erosion would cause considerable damage to the ground level Well. In fact, I have given an undertaking that I will not deepen the Well further. After receipt of my representation, I was asked to submit a petition in a prescribed format to the second respondent".

6. In view of the above undertaking given by the petitioner, writ petition is disposed of, permitting the petitioner to construct the parapet wall in the ground level Well. In case, the petitioner violates and start deepening the Well, it is open for the respondents to initiate action in accordance with law. No costs. Consequently, connected miscellaneous applications are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

pvs/vv

To:

1. The District Collector,
Namakkal District,
Namakkal - 637 002.
2. The Block Development Officer,
Village Panchayat,
Kill Hills Block,
Namakkal District.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.71661
+1cc to Mr.S.Diwakar, Advocate, S.R.No.71773
+1cc to the Government Pleader, S.R.No.72118

CP(CO)
GN(26/10/2017)

W.P.No.25963 of 2017

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