



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.01.2017
CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

WEB COPY

W.P.(MD)No.13732 of 2013
and M.P.(MD) Nos.1 and 2 of 2013

R.Kaliappan

... Petitioner

Vs.

1.The Assistant Electrical Engineer,
Operation and Maintenance,
TANGEDCO,
Markampatti,
Chinnakkampatti Post,
Oddanchathram Taluk,
Dindigul District.

2.The President,
Kuthiluppai Panchayat,
Kuthilupatti P.O.,
Markampatti Via.,
Oddanchathram Taluk,
Dindigul District.

... Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the 1st respondent in his proceedings Ka.No.Vu.Po/E.Pe/Makapatti/Va.Aa/Ko-13/A No.49/13/dated 06.08.2013 and quash the same as illegal and without jurisdiction.

For Petitioner :Mr.B.Saravanan

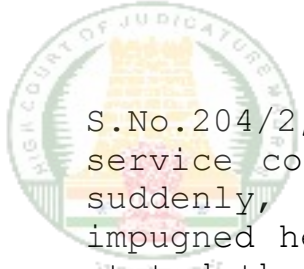
For 1st Respondent :Mrs.S.Srimathi

O R D E R

The prayer in the Writ petition is for a Writ of Certiorari, calling for the records relating to the impugned order passed by the 1st respondent in his proceedings Ka.No.Vu.Po/E.Pe/Makapatti/Va.Aa/Ko-13/A No.49/13/ dated 06.08.2013 and quash the same.

2.Heard both sides.

3.The case of the petitioner is that he is having <https://hcc.mca.gov.in/services/> land in S.No.204/2, admeasuring 4.75 Acres, Kuthiluppai Village, Oddanchatram Taluk, Dindigul District. In order to have the irrigation facility he dug a bore well in



S.No.204/2, for which he requested the respondent department for service connection and the same was also given to him. While so, suddenly, the first respondent has issued proceedings, which is impugned herein dated 06.08.2013, whereby the first respondent has stated that the bore well and the agricultural service connection given to the petitioner is said to have been located at Survey No.205 and as per the complaint received by the first respondent office the said land belongs to the second respondent and therefore, the first respondent issued the impugned letter that he should produce relevant revenue records to show the title as well as the possession wherein the bore well said to be put up and service connection has been given, of course belongs to the petitioner. As against the said communication, the present writ petition has been filed.

4. Heard both sides.

5. The learned counsel appearing for the petitioner would contend that the petitioner has dug a bore well only at S.No.204/2 to irrigate his land at S.Nos.202 and 204/2, for which service connection has been given and the petitioner has been enjoying the same. While so, there seems to be a frivolous complaint, wherein it is stated that the bore well was not located at S.No.204/2 and it was located at S.No.205, which belongs to the Government. There is no substance in the said complaint as the petitioner has never dug any bore well in S.No.205 and therefore, the petitioner need not appear and produce relevant documents before the first respondent. Further, the petitioner has also filed O.S.No.243 of 2012 on the file of Sub Court, Palani, wherein the petitioner also filed an interlocutory application, where injunction has been granted restraining the respondents therein from interfering with his physical possession and enjoyment of the property.

6. That apart the petitioner also has come out with the present writ petition challenging the impugned order dated 06.07.2003. In this regard the learned counsel appearing for the petitioner would submit that the first respondent has no jurisdiction to seek any document pertaining to the title of the petitioner. Moreover, the petitioner has dug bore well and is enjoying the service connection given to him at Survey No.204/2, which belongs to him. When that being so, asking necessary particulars by the impugned order at the instance of a frivolous complaint given to the first respondent is unnecessary and the first respondent should not have issued the impugned communication and the same has to be interfered by this Court.

7. Per contra, the learned Standing Counsel appearing for the first respondent would submit that the service connection has been given to the petitioner at the instance of the petitioner for his agricultural land. Admittedly since the petitioner's land is located only at S.No.202 and 204/2 and only on the complaint



received by the first respondent that the service connection given to the petitioner for agricultural purpose is in some other survey number, namely, 205, which admittedly not belongs to the petitioner, the first respondent has now issued the impugned communication just asking the petitioner to show particulars as to whether the same belongs to the petitioner. The petitioner has to satisfactorily answer with documents that he has not dug the bore well in S.No.205 and only in Survey No.204/2 and the same belongs to him and at least photo copies of title deeds should have been produced before the first respondent and in stead of doing so, this writ petition has been filed by the petitioner vexatiously and therefore the same is liable to be rejected.

8.This Court has considered the rival submissions made by the respective learned counsel.

9.The main grievance of the petitioner appears to be that he is having land in Survey Nos.202 and 204/2 of Kuthiluppai Village, wherein according to the petitioner bore well has been dug and for which only service connection has been given in the name of the petitioner and he has not dug bore well in Survey No.205 and actually he obtained electricity service connection at Survey No.204/2 and the impugned notice is unnecessary and if at all any complaint is given the same should have been verified. The learned counsel appearing for the petitioner would submit that in order to establish the petitioner's right he has rightly approached competent civil Court by filing a suit, where injunction has already been granted.

10.After having considered the materials placed before this Court, this Court is of the considered view that if any doubt has arisen as to whether the bore well as well as service connection in the name of the petitioner is located at the land belong to him in survey No.204/2 or the adjacent survey No.205, which allegedly belonging to the Government, the right course to be adopted is to approach Survey Department to get both the lands surveyed and in stead the petitioner has rushed to this Court to quash the very order of the first respondent dated 06.08.2013, wherein only particulars have been sought for to get clarified.

11.In view of the said facts, the following orders are passed in this writ petition:

(I) The impugned order need not be interfered and the same has to be kept in abeyance.

(ii) The petitioner shall be at liberty to approach the Survey Department for getting surveyed and measured the lands belonging to him at Survey No.204/2 and 202 as well as S.No.205 of Kuthiluppai Village and the report shall be submitted to the first respondent with relevant documents by way of reply in response to the impugned order.



(iii) While making such survey the petitioner can also seek a representative from the Revenue Department as well as from the second respondent to be present at the time of survey.

(iv) For completion of the survey and measurement work as directed above, the petitioner shall approach the survey department within two weeks from the date of receipt of a copy of this order, thereupon the Surveyor and other authorities concerned with the Survey department shall complete the survey and give a report within a period of four weeks thereafter.

12. In view of the said action being directed by this Court, the impugned order shall not be given effect to for two months from the date of receipt of a copy of this order and thereafter on receipt of reply from the petitioner, of course after completing the survey and the measurement, the first respondent shall act depending upon the merits of the report of the Survey Department.

13. With the above observation, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The Assistant Electrical Engineer,
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2. The President,
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Markampatti Via.,
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Dindigul District.

+1cc to Mr. S.M.S. Johny Basha, Advocate, SR.24888

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