

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.06.2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.31120 of 2017
and W.M.P.No.17546 of 2018
and W.M.P.No.34132 of 2017

A. Balaji

... Petitioner

Versus

1. The District Collector,
Erode District.
2. The Tahsildar,
Erode Taluk, Erode District.
3. The Executive Engineer,
Tamilnadu Water Supply and Drainage Board,
Erode District.
4. The Commissioner,
Erode Corporation Office,
Erode.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus forbearing the respondents and their subordinates from constructing overhead tank in petitioner's Plot Nos.66,67,68 and 69, situated at Thindal Village, Erode Taluk, Erode District comprised in S.No.27, R.S.No.99/11, approved by Government in L.P.R (C.N) No.114/82.

For Petitioner :Mr.L.Chandrakumar

for M.Mariappan

For Respondents :Mr.M.Elumalai,

Government Advocate for RR1 & 2

Mrs.Narmada Sampath

Addl. Advocate General assisted by

Mr.M.Rajamathivanan for RR3 & 4

O R D E R

The relief sought for in this writ petition is to forbear the respondents and their subordinates from constructing overhead tank in petitioner's Plot Nos.66,67,68 and 69, situated

at Thindal Village, Erode Taluk, Erode District comprised in S.No.27, R.S.No.99/11, approved by Government in L.P.R (C.N) No.114/82.

2. The learned counsel appearing on behalf of the writ petitioner states that the father of the writ petitioner late Shri.Arunachalam owned many properties in Erode Taluk purchased from and out of his own earnings. Accordingly, Plot No.66, measuring an extent of 4100 sq. feet, Plot No.67, measuring an extent of 3240 sq. feet , Plot No.68, measuring an extent of 2370 sq. feet and Plot No.69, measuring an extent of 1223 sq. feet situated at Thindal Village, Erode Taluk, Erode District comprised in S.No.27, R.S.No.99/11 were purchased by the father of the writ petitioner through a registered sale deed in Document Nos.3116/1982, 3039/1982, 3111/1982 and 3040/1982 respectively. The learned counsel for the petitioner states that the petitioner is the absolute owner of the land, which is the subject matter in the present writ petition. Thus, the respondents have no authority to interfere with the peaceful possession and enjoyment of the property belonging to the writ petitioner. Further, it is contended that already there is an overhead tank in existence in the nearby location and therefore, there is no need to construct further overhead tank for public purpose.

3. The learned Additional Advocate General appearing on behalf of the respondents opposed the contention by stating that the land in question is the Government land and the said land has been allotted for the purpose for maintaining a park for public usage. As per the approved plan, the said location was allotted for maintenance of a park and therefore, the petitioner can never claim any title, ownership or possession in respect of the said property. The respondents have initiated steps to construct overhead water tank for public purpose. In view of the fact that the said location is fast developing, the Government issued orders for the purpose of constructing overhead water tank. The Government issued G.O.(Ms).No.109, Municipal Administration and Water Supply (MA2) Department for implementation of water supply improvement projects in nine Urban Local Bodies at a total estimated cost of Rs.2112.74 crore (Rupees Two thousand One hundred and Twelve crore and Seventy Four lakh only). The administrative sanction has been accorded to proceed with the project. On account of the pendency of the writ petition, the respondents are unable to proceed with the scheme already approved by the Government.

4. This Court is of an opinion that the writ petitioner claims that he is the absolute owner of the property. If so, it is for the petitioner to approach the competent Civil Court for the purpose of establishing title, ownership or possession in

respect of the immovable properties. This Court in a writ petition cannot decide the title or ownership of the properties and in the present writ petition, the respondents also claim that a park is to be maintained for public usage and the writ petitioner cannot claim any ownership or title in respect of the land, which was allotted for the purpose of maintaining public park as per the approved plan. Further, the revenue records also describe the said land as a public park to be maintained. Such being the contra statement made both by the petitioner as well as by the respondents, it is left open to the petitioner to approach the competent Civil Court of law for establishing the title or otherwise. This being the factum of the case, the relief as such sought for cannot be granted.

The Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Erode District.
2. The Tahsildar,
Erode Taluk, Erode District.
3. The Executive Engineer,
Tamilnadu Water Supply and Drainage Board,
Erode District.
4. The Commissioner,
Erode Corporation Office, Erode.

+lcc to Mr.M.Mariappan, Advocate Sr.No.41313
+lcc to Government Pleader SR.No.40892
+lcc to Mr.M.Rajamathivanan, Advocate SR.no.40868

NA(CO)

sm:12.7.2018

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