

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.07.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10089 of 2013

and

M.P.No.1 of 2013 & W.M.P.No.7725 of 2018

Krishnammal

..Petitioner

vs

1.The District Collector,
Namakkal.

2.The Tahsildar,
Taluk Office,
Rasipuram.

3.The Block Development Officer,
Rasipuram, Namakkal District.

4.The President,
Panchayat Board,
Kallankulam, Rasipuram Taluk,
Rasipuram Taluk,
Namakkal District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to stop further construction work in S.No.33 having Patta No.125/25/1 having extension 0.0074.0.

For Petitioner :Mr.K.Nagarajan

For Respondents:Mrs.A.Srijayanthi
Special Government Pleader
for R1, R2 and R4
Mr.V.Jayaprakash Narayanan for R3

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to stop further construction work of water tank and provide costs or relief to the petitioner.

2. The learned counsel appearing for the petitioner states that the respondents are making an attempt to construct the water tank for public purpose in the land belongs to the writ petitioner. In other words, the authorities are attempting to interfere with the lands under the possession of the writ petitioner. The petitioner claims that the construction of water tank cannot be undertaken in respect of the land belongs to the writ petitioner.

3. The Tahsildar, Rasipuram, Namakkal District in his counter affidavit filed in support of the vacate stay petition states that the averments made in paragraph no.5 of the affidavit filed in support of this writ petition is not correct and the construction was done in S.No.25/3, lying on the south side of the petitioner's house, that too is classified as 'Kuttai Poromboke', for which she has no connection or whatsoever and therefore, the contention of the writ petitioner is erroneous.

4. The learned Special Government Pleader appearing for the respondents also reiterated the fact that the construction of water tank in that Village was undertaken in respect of the lands belongs to the Government, and the said land was classified as 'Kuttai Poromboke' and therefore, the authorities have never interfered with the lands belonging to the writ petitioner and therefore, the construction of the said water tank was only in the Government land and there is no violation by the authorities.

5. It is made clear that the authorities are bound to verify the land in which the proposed construction of water tank is undertaken and they should also ensure that the Tank is constructed in the Government Land and not in the land belonging to the writ petitioner and if there is an encroachment in respect of the Government land by any person in the locality, then the Tahsildar or the District Collector are empowered to remove the encroachment by following the procedures contemplated under the Tamil Nadu Land Encroachment Act, 1905. The competent revenue officials are bound to oversee such encroachments and if any encroachments are being found, then duty mandated on their part is to evict the encroachers from the Government land and utilise the land for public purpose and in the interest of public. The authorities competent are bound to proceed with the construction of the water tank for the usage of public at large.

6. The writ petition is devoid of merits and accordingly, stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Collector,
Namakkal.
 - 2.The Tahsildar,
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Rasipuram.
 - 3.The Block Development Officer,
Rasipuram, Namakkal District.
 - 4.The President,
Panchayat Board,
Kallankulam, Rasipuram Taluk,
Rasipuram Taluk,
Namakkal District.
- + 1 cc to M/s. K. Nagarajan, Advocate Sr.46948
+ 1 cc to Government Pleader Sr.47616

सत्यमेव जयते

W.P.No.10089 of 2013

(CS-IX)
EU(02/08/2018)

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