

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.14039 of 2012
and M.P.No.1 of 2012

K.Rajendran

... Petitioner

Vs.

1.The Block Development Officer (Village Panchayat),
Omalar Taluk,
Salem District.

2.Mrs.Sakunthala

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records of the impugned order dated 30.4.2012 passed by the 1st respondent in his proceedings No.Na.Ka.No.972/2012/Thi2 and quash the same and consequently direct the 1st respondent to permit the petitioner to lay the pipe line.

For Petitioner : Mr.T.Ganesan

For Respondents : Mr.S.Diwakar for R1
No appearance for R2

सत्यमेव जयते
O R D E R

Heard Mr.T.Ganesan, learned counsel for the petitioner, Mr.S.Diwakar, learned counsel for the first respondent and none appeared for the second respondent and perused the materials available on record.

2.This writ petition has been filed for issuance of a writ of certiorarified mandamus to set aside the order of the first respondent dated 30.04.2012 and consequently, direct the first respondent to permit the petitioner to lay pipeline.

3. According to the petitioner, he along with his brothers Palanisamy and Manickam jointly purchased the agricultural land measuring an extent of 25.5 cents in S.No.12/4 in Pottiapuram Village, Omalur Taluk, Salem District from one Chinnappan through a registered sale deed and they are having a share in the adjacent land in S.No.12/5. It is further stated that the land in S.No.12/5 is kept for common usage and a common well is available for irrigation of the land of the petitioner in S.No.12/4.

4. It seems that the first respondent granted permission, permitting the petitioner to take water from the well in S.No.12/5, to irrigate his land in S.No.12/4 on 19.4.2012. However, due to the objection of the second respondent dated 30.4.2012, the track line permission was cancelled by the impugned order dated 30.4.2012. According to the petitioner, the order was passed without providing an opportunity to the petitioner, which is against the principles of natural justice. It is further stated that pendency of the Suit in O.S.No.57 of 2010 is nothing to do with the licence granted to the petitioner for laying pipe line.

5. Perusal of the impugned notice shows that the first respondent without issuing any notice and providing an opportunity to the petitioner cancelled the track line permission, due to the pendency of the suit in O.S.No.57 of 2010. Even if there is any dispute between the petitioner and the second respondent, the first respondent cannot cancel the permission granted in favour of the petitioner, since the cancellation is having civil consequences.

6. In that view, the order impugned in this writ petition is set aside and the matter is remitted back to the first respondent, who shall pass orders afresh, after affording an opportunity to all necessary parties on merits and in accordance with law. Accordingly, this writ petition is allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ms

To

The Block Development Officer (Village Panchayat),
Omalur Taluk,
Salem District.

+lcc to Mr.T.Ganesan, Advocate, S.R.No.52177

+lcc to Mr.S.Diwakar, Advocate, S.R.No.52233

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GSP (30/08/2018)



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