



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated :17.09.2018

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A. (MD) No.1120 of 2015

and

M.P (MD) Nos.1 and 2 of 2015

R.Visalakshi

.. Appellant/Petitioner

Vs.

President,
Kambanoor Panchayat,
Tenkarai Village,
Adhikaram Post, Tirupattur Taluk,
Sivagangai District.

.. Respondent/Respondent

Prayer : Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order passed in W.P(MD)No.12625 of 2015 dated 12.10.2015.

Prayer in WP(MD)No. 12625 of 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records of the respondent relating to resolution NO.38, dated 03.07.2015 in respect of S.No.296/18 measuring 0.23.17 ares situated at Thenkarai Group and village in Tirupattur Vattam and Taluk, Sivagangai District and quash the same as illegal and void consequentially direct the respondent not to change the physical features of subject land.

For Appellant	: Mr.G.R.M.Palaniappan
For Respondent	: Mr.M.Murugan, Government Advocate

JUDGMENT

[Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.]

This writ appeal is filed by the appellant / writ petitioner, against the dismissal of the writ petition in W.P(MD)No.12625 of 2015 vide order dated 12.10.2015.

2. The case of the appellant / writ petitioner is that the property in dispute is classified as a 'Grama Natham' land comprised in S.No.296/18 situated at Thenkarai Village in Tirupattur Taluk. She claims to be in continuous possession of a portion of the said land.



3. It is seen that earlier, the appellant filed a writ petition in W.P(MD)No.7658 of 2004 challenging the refusal to grant patta in favour of the appellant and it is stated to be pending before the Principal Seat of this Court, till today.

WEB COPY

4. Subsequently, resolution No.38, dated 03.07.2015 was passed by the President, Kambanoor Panchayat, Tenkarai Village, Adhikaram Post, Tirupattur Taluk, Sivagangai District, to the effect that in respect of survey no.296/18, permission was granted for construction of a Community Hall. According to the appellant, as the property in question is a 'Grama Natham' land, the Government will not have a say over the property. Hence, challenging the said resolution, the appellant has filed the present writ petition.

5. While deciding whether such resolution passed by the panchayat dated 03.07.2015 is to be quashed or not, the learned single Judge had categorically found that the appellant could not produce any records to show that she is in possession and enjoyment of the petition mentioned property and hence, dismissed the writ petition.

6. Be that as it may, today, the learned Government Advocate appearing for the respondent on instructions submits that pursuant to the impugned resolution, a Community Hall has been constructed and the same could not be opened for public use because of the pendency of the proceedings before this Court.

7. However, the learned counsel appearing for the appellant states that the possession of the appellant is with respect to a small extent of the land in dispute and on the said portion, there is no construction.

8. We have considered the submissions made on either side and perused the materials placed before us.

9. It is not known as to why the said writ petition, which has been filed before the Principal Seat of this Court wherein the appellant has sought for patta to be issued in her favour, was kept pending for more than 1 ½ decades.

10. Therefore, considering the pendency of the earlier writ petition, we are of the considered opinion that the present writ appeal cannot be entertained. Further, when the resolution under challenge has already been acted upon and the Community Hall has been constructed in the subject land, the present writ petition itself has become infructuous. Besides, the appellant has not even got a scrap of paper either in the form of patta or any other documents to show her title or possession. She has got no right to stop the panchayat from proceeding with the resolution.



It is open to the appellant to pursue her earlier writ petition, which is pending before the Principal Seat of this Court from the year 2004 and agitate the same with all the objections that are available with her.

11. With the above observations, the present writ appeal is dismissed. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(w)

/True Copy/

Sub Assistant Registrar(Cs-I)

To:

President,
Kambanoor Panchayat,
Tenkarai Village,
Adhikaram Post, Tirupattur Taluk,
Sivagangai District.

+1cc to Spl.Government Pleader Sr.No.84882
+1cc to Mr.S.P.Maharajan, Advocate Sr.No.84508

PM

VB/PM/SAR1/15.10.2018/3P/4C

Judgment made in
W.A(MD)No.1120 of 2015
17.09.2018