

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2020

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.12470 of 2017
and
W.M.P.No.20671 of 2019
& W.M.P.No.13258 of 2017
(heard through VC)

G.Natarajan

...Petitioner

Vs

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Public Work Department,
Secretariat, Fort St. George,
Chennai 9.
2. The Executive Engineer,
Public Works Department,
Water Resource System,
Dharmapuri 5.
3. The Officer in Charge,
The Tracking Department,
Public Work Department,
Water Resource System,
Thiruvannamalai District.
4. The District Collector,
Dharmapuri District,
Dharmapuri.
5. The Superintendent of Police,
Dharmapuri District,
Dharmapuri.
6. The Inspector of Police,
Mahendra Mangalam Police Station,
Dharmapuri District,
Dharmapuri.

7. T.S.Iqubal
Contractor,
No.3/1407 New Colony, R.S.Masothi Backside,
Dharmapuri District,
Dharmapuri.

8. Mr.T.Subramani

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus forbearing the Respondents from any way or in any manner to form any channel in the petitioners properties Thimmarayan Halli Village in Kasimangalam Taluk, Dharmapuri District comprised in Survey Number Nos. 140/6, 140/8, 142/10 and 142/4 covered in Patta No.56 and in Velagala Halli Village comprised in Survey Nos.51/A, 77/2A, 77/2B, 77/2D and 77/2F covered in Patta No.376 without any due process of Law.

For Petitioner : Mr.K.Gandhi Kumar

For RR1 to 6 : Mr.R.S.Selvam,
Government Advocate

For R7 : Mr.P.Ebenezer Paul

ORDER

The petitioner has sought for a Writ of Mandamus forbearing the respondents from any way or in any manner to form any channel in the petitioners properties Thimmarayan Halli Village in Kasimangalam Taluk, Dharmapuri District comprised in Survey Number Nos. 140/6, 140/8, 142/10 and 142/4 covered in Patta No.56 and in Velagala Halli Village comprised in Survey Nos.51/A, 77/2A, 77/2B, 77/2D and 77/2F covered in Patta No.376 without any due process of law.

2. The petitioner is the owner of the properties comprised in the survey numbers referred to above and it is his specific allegation that the seventh respondent with the aid of the eighth respondent trespassed into his patta land and attempted to form a water channel under the guise of contract obtained from the respondents 1 to 3. As the land belongs to the petitioner, in the event of any channel being laid on the same, due process of law has to be followed by acquiring the said land. However, since the same has not been done and thus, the acts of the respondents are illegal, a suit in O.S.No.15 of 2016 on the file of the District Munsif, Palacode, for permanent injunction was filed, in which, a Commissioner was appointed in

I.A.No.78 of 2016 to note down the physical features and damages caused on the petitioner's land. Admittedly, no injunction was granted in the suit and the suit is also said to be pending till today. In the meanwhile, the petitioner has rushed to this Court with the above writ petition and obtained an order of status-quo.

3. The learned counsel appearing for the seventh respondent, who is the Contractor, says that the contract was given to him by the respondents 1 to 3 for construction of an irrigation channel and the construction of the same is completed long back.

4. The only grievance of the petitioner is that his lands cannot be used without taking possession for the specific utilization by following the due process of law. From the facts, it is clear that there has been a construction of the irrigation channel. The only thing that has to be ascertained is whether the same has been laid on the property belonging to the petitioner in the Survey Numbers mentioned in the petition.

5. As already a comprehensive suit is filed, it is open to the petitioner to workout his remedies with respect to the damages caused, etc. in the suit. So far as this writ petition is concerned, as only a Mandamus is sought for by the petitioner seeking to restrain the respondents from doing any work without due process of law, the respondents 1 to 3 are directed to look into the issue and not proceed further unless by due process of law.

6. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rsi/gg

To

1. The Secretary,
Government of Tamil Nadu,
Public Work Department,
Secretariat, Fort St. George,
Chennai 9.

WEB COPY

2. The Executive Engineer,
Public Works Department,
Water Resource System,
Dharmapuri 5.
3. The Officer in Charge,
The Tracking Department,
Public Work Department,
Water Resource System,
Thiruvannamalai District.
4. The District Collector,
Dharmapuri District,
Dharmapuri.
5. The Superintendent of Police,
Dharmapuri District,
Dharmapuri.
6. The Inspector of Police,
Mahendra Mangalam Police Station,
Dharmapuri District,
Dharmapuri.

+1cc to M/s.P.Ebenezer Paul, Advocate, S.R.No.25143
+1cc to the Government Pleader, S.R.No.25172

W.P.No.12470 of 2017

RLD (CO)
KKV/03/08/2020

सत्यमेव जयते

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