



WEB COPY

W.P.(MD)No.10925 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.10925 of 2020

and

W.M.P. (MD)No.9590 of 2020

M.Selvakumar

... Petitioner

Vs.

1.The District Collector,
Dindigul District.

2.The Project Director,
District Rural Developments
Collectorate,
Dindugal.

3.The President,
Aiyankalaiyampudhur Village Panchayat,
Palani Taluk,
Dindugal District.

4.The President,
Kodhamangalam Village Panchayat,
Palani Taluk,
Dindugal District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 4 to close the well which is being illegally dug in S.F.No.19/B2, Aiyankalaiyampudhur Village Panchayat, Palani Taluk, Dindugal District and consequently, forbear the respondents to dig a well in S.F.Nos.19A1, A2, B1 and B2 Aiyankalaiyampudhur Village Panchayat, Palani Taluk, Dindugal District and by considering the petitioner's representation, dated 10.08.2020.

For Petitioner	: Mr.K.Balasubramani
For R1 & R2	: Mr.S.Angappan
	Government Advocate
For R3 & R4	: Mrs.M.Rajeswari

O R D E R

Heard the learned counsel on either side.

2.The writ petition has been filed for forbearing the respondents from carrying on with the digging of a well in the petition mentioned survey numbers. The petitioner raised two grounds. The first ground is that the well is being dug in a public



pathway / cart track. The second ground is that as a result of these activities, his right of access to his nearby agricultural land is being blocked.

3.The respondents 3 and 4 have filed a detailed counter affidavit. They have also filed a typed set of papers. It is seen that the District Collector, Dindigul, vide proceedings dated 17.09.2019 had granted administrative sanction for these works. It is also seen that the land in question has not been shown as cart track in the revenue records. Only if the land in question is cart track, the respondents can be restrained from digging any well.

4.The petitioner's counsel states that the land in question has been used as pathway since time immemorial. If that be so, that becomes a question of fact which has to be established before the Civil Court by adducing evidence. If the petitioner only wants this Court to assume that there is cart track on the petition mentioned land, then he has to produce revenue records. In this case, such revenue records have not been produced.

5.Therefore, I am not in a position to accept the first contention put forth by the petitioner's counsel. As regards his grievance that his access rights will be affected, the learned counsel appearing for R3 and R4 states that the petitioner is very much having an alternative pathway to access his agricultural land and that, the panchayat president would ensure that the petitioner's access rights are fully taken care.

6.This submission made by the learned counsel appearing for R3 and R4, on instructions, is placed on record.

7.The learned counsel appearing for the Panchayat would state that the Panchayats are having acute water scarcity and that, they are presently buying water from outside. It is a community well being dug under Jal Jeevan Mission.

8.I am of the view that public interest will be served by permitting the instant works to go on. Public interest will have to prevail over the pathway rights claimed by the petitioner. I find no ground to interfere. The Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

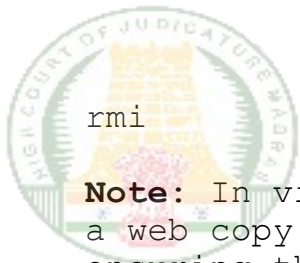
Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Collector,
Dindigul District.
- 2.The Project Director,
District Rural Developments
Collectorate,
Dindugal.

+1 CC to SPL GP (SR-16876[F] dated 15/09/2020)

W.P. (MD) No.10925 of 2020

11.09.2020

VB (07.10.2020) 3P 4C