



WEB COPY

W.P.(MD)No.1369 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.1369 of 2021

and

W.M.P.(MD)No.1173 of 2021

Geetha

... Petitioner

-Vs-

1.The District Collector,
Tanjore Collector Office,
Tanjore Town & District.

2.The Divisional Engineer,
Highway Department,
Panagal Building,
Tanjore Town & District.

3.The Executive Engineer (PWD),
PWD Office Building,
Ottankadu (Post),
Tanjore District.

4.The Block Development Officer (BDO),
Sethubavachattram Panchayat Union Office,
Poonkollai,
Tanjore District.

5.The President,
Kollukkodu Village Panchayat,
Rajamadam (Post),
Pattukottai (TK), Tanjore (Dt.)

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 4 and 5, their men, agents, servants to remove the construction (Water Tank) work made by them in the eastern side of petitioner's property (ie., as shown in the photo and rough sketch).

For Petitioner	:	Mr.V.Lakshmanan
For R1 to R3	:	Ms.M.Rajeswari Government Advocate
For R4	:	Mr.V.P.M.Vaishnavi Government Advocate

ORDER

Heard the learned counsel on either side. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

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2.The petitioner's counsel states that if the impugned construction is allowed to come up, the petitioner's easementary rights of access will be totally affected.

3.I am of the view that this is an issue that has to be adjudicated only by the jurisdictional civil Court and it is not for the writ Court to go into the issue. However, considering the facts and circumstances of the case, the petitioner deserves to be granted some interim protection.

4.The petitioner's counsel states that he will move the jurisdictional Civil Court on or before 02.02.2021 itself.

5.Recording the said submission, I direct that *status quo* as on date will continue for a period of ten more days. I make it clear that I have not gone into the merits of the matter. It is open to the petitioner to seek interim relief in the pending suit. Since the Court below can even waive the requirements as regards Section 80 of C.P.C., the jurisdictional civil Court will number the suit immediately and consider the petitioner's application for interim relief on merits and in accordance with law.

6.With this observation and limited protection, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmi

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,
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Tanjore Town & District.

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3.The Executive Engineer (PWD),
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(SMV) CO
AP(29/01/2021) 3P 5C