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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.NO.33984 OF 2019

AND

W.M.P.NO.34573 OF 2019

Vasanthha

... Petitioner

Vs.

1. The District Collector,
Cuddalore District,
Cuddalore.
2. The Block Development Officer,
Kattumannarkoil Taluk,
Cuddalore District.
3. The Tahsildar,
Kattumannarkoil Taluk,
Cuddalore District.
4. Junior Engineer,
The Tamil Nadu Electricity Board,
Muttam Village,
Ayankudi Post,
Kattumannarkoil Taluk,
Cuddalore District.
5. Ganesan
6. Vasudevan
7. The Chairman,
TANGEDCO, 10th Floor,
NPKRR Malligai, No.144,
Anna Salai, Chennai-600 002.

(R7 impleaded as per order dated 21.02.2020 made in WMP.490/2020 in WP.33984/2019 by PDAJ)

... Respondents



Prayer:

Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus, directing the first respondent to third respondent to remove the bore pump and Sintex tank that had been kept at the petitioner place comprised in S.No.55/2C, 2D and 2G situated at Vadakku Kanjan Kollai Post, Kattumannarkoil Taluk, Cuddalore District in all measuring 6 and ½ cents as the lands are Patta and for other relief.

For Petitioner : Mr.D.Ashok Kumar

For Respondents

For R1 & R3 : Mr.Tamilnidhi
Additional Government Pleader

For R2 : J.Pothiraj

ORDER

This Writ Petition has been filed for the issuance of a Writ of Mandamus to direct the first respondent to third respondent to remove the bore pump and Sintex tank that had been kept at the petitioner place comprised in S.No.55/2C, 2D and 2G situated at Vadakku Kanjan Kollai Post, Kattumannarkoil Taluk, Cuddalore District in all measuring 6 and ½ cents as the lands are Patta and for other relief.

2. It is the case of the petitioner that without obtaining appropriate permission from the petitioner, a bore pump and the Sintex tank has been placed on the petitioner's patta land.

3. The learned Additional Government Pleader appearing on behalf of the official respondents, submits that the fifth respondent, Ganesan, who is the co-owner of the petitioner's land has consented for the same for setting up bore pump and the Sintex tank and therefore there is no merits in the present writ petition.

4. It is further submitted that the bore pump and the Sintex tank has been dug up only for the benefit of the public and therefore public interest should take precedence over the private interests of the petitioner.

5. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsels for the respondents.



6. There is no dispute in respect of the possession over the land which belongs to the petitioner in as much as the fifth respondent and the Joint Patta has been issued to them. There is no partition between the petitioner and the fifth respondent. Therefore, the fifth respondent cannot unilaterally give a consent for digging up a bore-well for putting up the same without the permission of the petitioner.

7. The second respondent also cannot act on unilateral concession given by the fifth respondent. In case, such a step was to be taken, appropriate notice ought to have been issued and compensation should have been given for the petitioner for the use of the land.

8. Considering the same, I direct the respondents either to take steps for removing the bore-well and the Sintex tank from the petitioner's and the fifth respondent's land within a period of thirty days from the date of receipt of a copy of this order or in an alternative pay suitable compensation to the petitioner in proportion with the rights of the petitioner for the use of the above said land.

9. This writ petition stands disposed of with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rgm

To

1. The District Collector,
Cuddalore District,
Cuddalore.
2. The Block Development Officer,
Kattumannarkoil Taluk,
Cuddalore District.
3. The Tahsildar,
Kattumannarkoil Taluk,
Cuddalore District.



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4. Junior Engineer,
The Tamil Nadu Electricity Board,
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Cuddalore District.

5. The Chairman,
TANGEDCO, 10th Floor,
NPKRR Malligai, No.144,
Anna Salai, Chennai-600 002.

+3ccs to Mr.D.Ashok Kumar, Advocate, S.R.No.35469 & 34960
+1cc to J.Pothiraj, Advocate, S.R.No.34735
+1cc to the Government Pleader, S.R.No.35330

W.P.No.33984 of 2019
and
W.M.P.No.34573 of 2019

PL (CO)
PM/27/06/2022