



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Thursday, the Eighth day of September Two Thousand and Twenty Two

PRESENT

The Hon`ble Mrs.Justice V.BHAVANI SUBBAROYAN

W.M.P (MD) No.15601 of 2022
in
W.P. (MD) No.21446 of 2022

KARUPPANAN.R

... PETITIONER

Vs

- 1 THE DISTRICT REVENUE OFFICER,
THENI DISTRICT
- 2 THE REVENUE DIVISIONAL OFFICER,
PERIYAKULAM, THENI DISTRICT.
- 3 THE TAHSILDAR
TALUK OFFICE, ANDIPATTI, THENI DISTRICT.
- 4 THE EXECUTIVE ENGINEER
TAMIL NADU ELECTRICITY GENERATION AND
DISTRIBUTION CORPORATION (TANGEDCO),
MUNICIPAL COMMERCIAL COMPLEX, VAIGAI ROAD,
PERIYAKULAM, THENI DISTRICT.

5 NATARAJAN.R

... RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to stay the impugned order passed by the District Revenue Officer of Theni, the 1st respondent herein vide Na.Ka.No.5159/2019/D4(D2) dated 28.02.2022 confirmed the order passed by the Revenue Divisional Officer of Periyakulam, the 2nd respondent herein vide Na.Ka.No.6395/ 2009A1 dated 23.01.2019 till the disposal of this Writ Petition.

Prayer in WP(MD). 21446/ 2022 :

Writ Petition filed under Article 226 of Constitution of India, praying this Court to issue of Writ of Certiorarified Mandamus to call for the Order passed by the District Revenue Officer of Theni, the 1st respondent herein vide Na.Ka.No.5159/2019/D4(D2) dated 28.02.2022 confirmed the order passed by the Revenue Divisional Officer of Periyakulam, the 2nd respondent herein vide Na.Ka.No.6395/ 2009A1 dated 23.01.2019 and quash the same as



illegal and without jurisdiction and consequently directed the respondents to issue joint patta in respect of the common well and common channel in S.No.133 at Balakombai Village, Andipatti Taluk, Theni District.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S. RAJARAMAN. R, Advocate for the petitioner and of M/S.A.KANNAN, Additional Government Pleader on behalf of the Respondents 1 to 3 & M/S.S.DEENADHAYALAN, Advocate for the Respondent No.4, the court made the following order:-

This petition has been filed seeking to stay the impugned orders passed by the District Revenue Officer, Theni in Na.Ka.No.5159/2019/D4(D2), dated 28.02.2022 confirming the order of the Revenue Divisional Officer, Periyakulam in Na.Ka.No.6395/2009-A1, dated 23.01.2019 till the disposal of the writ petition.

2. The case of the petitioner is that S.No.133 to an extent of 2 acre 45 cents is the ancestral properties of the petitioner's father Ramasamy Moopar. The agricultural land consisting of common Well and common channel with the electricity connection in S.C.No.521 with electrical motor and other equipment. Till the life time of his father the land was enjoyed by their family members without any division. After his demise, there was an oral partition between four sons and the land in S.No.133 also sub divided into 133/2, 133/3, 133/4 & 133/5. Even after the oral partition and sub-division among the brothers, the common Well and common channel was enjoyed by the brothers without hindrance to other brothers.

3. The learned counsel for the petitioner further submitted that due to the economic conditions of the Marutha Moopar, his land in S.No.133/4 was alienated in favour of third parties. The fifth respondent Natarajan purchased the property to an extent of 58 cents as the owner for the land and co-owner for the common well, electricity connection and common channel. Under these circumstances, the other co-owners applied joint patta for the common well and the common channel before the Tahsildar, Andipatti. The third respondent issued joint Patta. Aggrieved against the issuance of the joint patta, the fifth respondent with suppression of fact filed the appeal before the second respondent. The second respondent, without considering the original records, has passed the impugned order and hence, he prays to an grant of interim stay. The learned counsel for the petitioner would further submit that in respect of S.No.133/4 Pattathar has not given any right over the said well. In the said well co-brothers had 1/4th share. In the said survey number the authorities have included the petitioner and the other members without the consent of the said purchaser.

4. Today, when the matter is taken up for admission, the learned counsel appearing for the petitioner sought interim stay of



the impugned orders passed by the respondents 1 & 2 and the court is not inclined to grant the interim stay, the counsel for the petitioner insist to grant an order of interim stay.

5. It is seen from the records that the second respondent has passed the impugned order on 23.01.2019 and the same was confirmed by the first respondent on 28.02.2022. From 28.02.2022 till 03.09.2022 the petitioner has not chosen to file any application before this Court, but he has filed the writ petition only on 03.09.2022 and he insists the court to grant an order of interim stay.

6. All the four brothers had 1/4th share in the said well and the petitioner is not in a position to prove that he had 1/4th share in the said well and he has right over in the said well and the authorities had rightly passed the impugned order, at this juncture, there is no urgency for granting interim stay.

7. Accordingly, W.M.P(MD)No.15601 of 2022 is dismissed. No costs.

sd/-

08/09/2022

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

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THENI DISTRICT

2 THE REVENUE DIVISIONAL OFFICER,
PERIYAKULAM, THENI DISTRICT.

3 THE TAHSILDAR
TALUK OFFICE, ANDIPATTI, THENI DISTRICT.

+1. C.C. to M/S. RAJARAMAN. R Advocate SR.No.9769

ORDER

IN

W.M.P(MD)No.15601 of 2022
in

W.P.(MD) No.21446 of 2022

Date :08/09/2022

RK/SVR/SAR-IV (12/09/2022) 3P/5C

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