



W.A.(MD) No.1409 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2022

CORAM:

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

**W.A.(MD) No.1409 of 2022
and
C.M.P.(MD) No.11267 of 2022**

1.U.K.Kamalam

2.S.Mithun Kannan

... Appellants

-vs-

1.The District Collector
Kanyakumari District
Nagercoil

2.The Block Development Officer
Thoivalai Block Office
Boothapandi, Kanyakumari District

3.The President
Thoivalai Panchayat
Thoivalai, Kanyakumari District

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 03.11.2022, passed in W.P.(MD) No.22959 of 2022, on the file of this Court.



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For Appellants : Mr.M.P.Senthil

For Respondents : Mr.S.P.Maharajan
Special Government Pleader

J U D G M E N T

[Judgment of the Court was made by R.MAHADEVAN, J.]

Challenging the order dated 03.11.2022, passed in W.P.(MD) No. 22959 of 2022, by the Writ Court, the appellants have preferred this writ appeal.

2. A perusal of the records shows that the appellants are in absolute possession of Plot Nos.12 & 13, in new Survey No.626/2A3 of Thovalai Village, Thovalai Taluk, Kanyakumari District, ever since the date of it's bequeath by their ancestors. Now, according to the appellants, the respondents, without any notice, made attempts to trespass into their property by way of constructing an overhead tank and though they made representation to the authority concerned, on 25.09.2022, ventilating their grievance, their efforts ended in vain. Hence, they approached the Writ Court by filing a writ petition in W.P.No.22959 of 2022. When the writ petition came up for hearing, the learned Government Pleaders appearing for the respondents submitted that the appellants' property is situated in Survey No.



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626/2A, for which a Patta has also been granted to them. But, the land in which overhead tank is proposed to be constructed is situated in Survey No. 627/1, which is nothing but a Government Poramboke land and to that effect, they also produced a copy of the report of the Village Administrative Officer, Thovalai Village, before the Writ Court. The Writ Court, in view of the above submissions made by the learned Government Pleaders and also the report submitted by the Village Administrative Officer, by the impugned order dated 03.11.2022, disposed of the writ petition holding that nothing remains for further consideration in the matter.

3. To be noted, this Court does not find anything in the impugned order passed by the Writ Court affecting the rights of the appellants over their property. Admittedly, the overhead tank proposed to be constructed in Survey No.627/1, is nothing but a Government Poramboke land and the appellants' land is in Survey No.626/2A, for which a Patta has also been granted to them. Therefore, the allegation of the appellants that the respondents are trying to construct an overhead tank in their property is erroneous and superfluous. In such view of the matter, the argument putforth by the learned counsel for the appellants to conduct a survey and demarcate the boundaries of the subject property afresh does not merit acceptance.



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4. Thus, for all these reasons, the impugned order passed by the Writ Court does not warrant interference of this Court. Accordingly, the writ appeal fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [J.S.N.P., J.]

24.11.2022

Index : Yes / No

Internet : Yes / No

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To:

- 1.The District Collector,
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Nagercoil.
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