



WEB COPY



W.P.No.4078 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.4078 of 2021
and
WMP.No.4694 of 2021

Kousalya

...Petitioner

Vs.

1.The District Collector
Tiruppur District
Tiruppur.

2.The Assistant Director
Panchayats
Erode Zone
Erode.

3.The Executive Officer
Samalapuram Town Panchayat
Samalapuram Village, Palladam Taluk
Tiruppur District 641 668.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 24.09.2020 made in



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Na.Ka.No.159/2019 of the third respondent, quash the same and consequently direct the respondents to remove the obstructions made in S.F.Nos.883 & 884, Samalapuram Village, Palladam Taluk, Tiruppur District and maintain the existing roads only as roads by considering the petitioner's representation dated 15.10.2020.

For Petitioner : Mr.D.R.Arun Kumar

For Respondents : Mr.P.Anandakumar for R1 & R2
Government Advocate

Ms.R.L.Karthika for R3
Government Advocate

ORDER

This Writ Petition is filed challenging the order passed by the third respondent dated 24.09.2020 rejecting the representation submitted by the petitioner objecting to construct an overhead tank in S.F.Nos.883 & 884 which is classified as a cart track.

2. It is the case of the petitioner that her husband is owning lands in S.F.Nos.882/1, 2A & 3 Samalapuram Village, Palladam Taluk, Tiruppur District and they are having access to their patta lands through the cart track



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available in S.F.Nos.883 & 884. The third respondent fenced a portion of the cart track in S.F.Nos.883 & 884 adjoining the petitioner's land obstructing the access. Therefore, representation was made to the respondents to remove the obstruction in that S.F.No.884. The third respondent rejected the representation submitted by the petitioner by impugned order on the ground that only a portion of the land in S.F.Nos.883 & 884 with an extent of 2834 sq.ft., had been fenced for the purpose of putting up the overhead tank.

3. It is also stated in the impugned order that the fenced portion of the land has been handed over to the third respondent for the purpose of putting up overhead tank.

4. The learned counsel for the petitioner submitted that the third respondent is not entitled to construct overhead tank in S.F.Nos.883 & 884 which had been classified as cart track in revenue records. It is also submitted by the petitioner that if the third respondent is allowed to put up overhead tank in the classified cart track, it will affect the right of access available to the petitioner.



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5. Heard, the learned counsel for the petitioner, learned Government Advocate appearing for the respondents 1 & 2 and the learned Government Advocate appearing for the third respondent.

6. The learned Government Advocate appearing for the respondents 1 & 2 by taking this Court to the proceedings of the first respondent dated 17.12.2021 submitted that a small portion of the land in S.F.No.884 to an extent of 0.01.53 acres has been re-classified for the purpose of putting up water tank and the same had been handed over to the third respondent Town Panchayat. The learned Government Advocate also submitted that the remaining portion of S.No.884/1 to an extent of 1.14.97 is retained as cart track and therefore, the cart track is not at all affected. The learned Government Advocate also submitted that the proposal for re-classification was submitted by the third respondent on 19.01.2021 and the first respondent after following due procedure re-classified a portion of S.F.No.884 and handed over the same to the third respondent for the purpose of putting up water tank.

7. In the counter affidavit filed by the first and third respondents it



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is stated that the construction of overhead tank is almost completed and due to the interim order granted by this Court, the same is kept in abeyance. The learned Government Advocate also produced the photographs of the construction and also the enlarged map of the concerned Survey numbers. The learned Government Advocate also produced the bird's eye view photographs of the location with the Survey numbers marked.

8. A perusal of the same would suggest that the width of the public road in S.No.884/1 is not at all affected by re-classification of the triangle portion near the Road junction, where Devarayanpalayam Road meets Karugampalayam Road-Sendevipalayam Road. The reclassification is for the purpose of putting up overhead tank and the same is assigned with the sub-division number of S.F.No.884/2. The said re-classification and creation of new sub-division in S.F.No.884/2 not at all affect the access to the petitioner's property as per the bird's eye view photographs submitted by the first respondent.

9. Since the first respondent re-classified portion of S.F.No.884



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and allotted the same to the third respondent by giving a new sub-division of S.F.No.884/2, the objections raised by the petitioner in this Writ Petition is not acceptable to this Court. Consequently, the Writ Petition is dismissed.

10. The learned counsel for the petitioner submitted that already the petitioner filed a Civil Suit against the respondents and the same is pending. If the petitioner's right of access is curtailed, it is always open to the petitioner to assert her right and work out her remedy in the manner known to law before the Civil Court. It is also open to the petitioner to challenge the order passed by the first respondent re-classifying the portion of the cart track by way of separate proceedings, if so advised.

11. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

07.08.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
dna



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