



WEB COPY



W.P.No.5808 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.04.2023

CORAM

THE HON'BLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.No.5808 of 2023
and W.M.P.No.5792 of 2023

Tamilselvi Balan

... Petitioner

Vs.

1.The District Collector,
Villupuram.

2.The Tahsildar,
Kandachipuram Taluk.

3.Executive Officer,
Arakandanallur Town Panchayat,
Arakandanallur,
Kandachipuram Taluk,
Villupuram District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the third respondent herein to immediately fill up the pit dug by the third respondent for 3 feet depth, 5 feet wide and 100 feet length abutting the petitioner's property bearing Survey No.9/11 Arakandanallur Village, Thirukovilur Taluk, Villupuram District, where he is running a petrol bunk or permit the petitioner to do the same at his expenses.



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For Petitioner

:Mr.A.Ashwin Kumar

For R1 and R2

:Mr.C.Selvaraj
Additional Government Pleader

For R3

: Mr.D.Gopal

ORDER

This Writ Petition has been filed for the issue of Writ of Mandamus, directing the third respondent to immediately fill up the pit that has been dug right in front of the petitioner's property wherein the petitioner is running a petrol bunk.

2.Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader for the respondents 1 and 2 and the learned counsel for the respondents 3.

3.The case of the petitioner is that he is running a retail petrol bunk in the subject property. The petitioner seems to have made some complaint against the Panchayat President for having encroached upon some Government lands and it ultimately, reached this Court and some directions were issued. Since the same was not complied with, contempt petition was also filed and during the pendency of the contempt petition, the encroachment seems to have been removed partially.



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4. According to the petitioner, the same enraged the Panchayat President and hence, he with the help of the third respondent had dug a pit which is 3 feet depth, 5 feet wide and 100 feet breadth right in front of the petrol bunk of the petitioner. This pit was dug on 04.10.2022. In view of the same, the access to the petrol bunk was completely cut. The petitioner made complaints in this regard and the same did not yield any response. Left with no other option, the present Writ Petition has been filed.

5. Learned counsel for the third respondent based on instructions submitted that steps were taken to lay a concrete road and there was no *mala fide* intention as alleged by the petitioner.

6. In the considered view of this Court, the pit that was dug right in front of the petrol bunk continues to be in the same status till date. As a result, the petitioner is not able to run the petrol bunk for more than six months. It is highly unreasonable on the part of the third respondent who have undertaken this exercise. The petitioner has already faced heavy loss for the last six months and the digging of the pit in front of the property of the petitioner has served no purpose except causing untold hardship to the petitioner. There is more than



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that issue since it will only prolong the agony faced by the petitioner.

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7.In the light of the above discussion, there shall be a direction to the third respondent to immediately cover / fill up the pit that has been dug abutting the property belonging to the petitioner. This exercise shall be completed by the third respondent within a period of one week from the date of receipt of a copy of this order.

8.In the result, this Writ Petition is disposed of with the above directions. Consequently, the connected Miscellaneous Petition is closed. No Costs.

20.04.2023

Anu
Speaking / Non Speaking order
Index : Yes / No



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N.ANAND VENKATESH, J.

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