



W.P.No. 14039 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2023

CORAM

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND**

THE HONOURABLE MR.JUSTICE P. DHANABAL

**W.P.No. 13578 of 2019
and WMP.No.13655 of 2019**

Muniratthinamma

..Petitioner

Vs

1.The Executive Officer,
Denkanikottai Town Panchayat,
Denkanikottai Town & Taluk,
Krishnagiri District.

2.N.Kesava Reddy
S/o. Late. Narasimha Reddy

..Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India to issue a writ of certiorarified mandamus, calling for the records relating to the proceedings of the 1st respondent in Na.Ka.No. 130/2019/Al, dated 10.04.2019 and quash the same and consequently direct the 1st respondent not to remove the authorised construction of drainage sump and water tank in private land in S.No.754/4/2 of Denkanikottai Village and Taluk, Krishnagiri District.



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For Petitioner : Mr. M.P.Saravanan

For Respondents : Mrs.R.L.Karthika, GA - R1

No Appearance - R2

ORDER

(Order of the Court was made by D.KRISHNAKUMAR, J.)

The prayer sought for in the writ petition is to call for the records relating to the proceedings of the 1st respondent in Na.Ka.No. 130/20-19/A1, dated 10.04.2019 and quash the same and consequently direct the pt respondent not to remove the authorised construction of drainage sump and water tank in private land in S.No.754/4/2 of Denkanikottai Village and Taluk, Krishnagiri District.

2. According to the learned counsel for the petitioner, petitioner is the owner of the property situated in Survey No. 754/4/, 754/3 measuring to an extent of 5381 sq.ft at Denkanikottai Village & Taluk, Krishnagiri District. The 1st respondent without considering the ownership and property document and revenue records of the petitioner, has issued notice dated



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10.04.2019 along with adjacent land owner Santhamma and informed that he will remove the unauthorised construction of drainage sum and water tank in the common pathway in S.No. 754/4/2 of Denkanikottai Village and Taluk, Krishnagiri District. Hence the said notice dated 10.04.2019 issued by the 1st respondent is liable to be quashed.

3.It is seen from the records, initially, the 2nd respondent herein has filed a writ petition in W.P.No. 29348 of 2016 seeking direction to the authorities concerned to remove the un-authorised construction of drainage sump and water tank in the common pathway in Survey No. 754/4/2 of Denkanikottai Village and Taluk, Krishnagiri District. The Hon'ble Division Bench of this Court by order dated 24.01.2019, directed the department to remove the unauthorised construction in the common pathway in Survey No. 754/4/2 of Denkanikottai Village and Taluk and further directed to take assistance of police force for removing the said unauthorised construction, if necessary. Pursuant to the said order of this Court, the 1st respondent had issued the impugned notice to the petitioner as well as one Santhamma, owner of the land adjacent to the petitioner.



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4. The writ petitioner has sent representation dated 15.04.2019 to the 1st respondent stating that she is the owner of the the property situated in survey no. 754/4/2 and not a common pathway and has no affiliation with the drainage sump and water tank built on Kesava Reddy's property.

5. We have perused the impugned notice issued by the pt respondent and the documents filed by the petitioner. The impugned notice issued was relates to the common pathway (பொது வழி) situated in Survey No. 754/4/2, High School Road, Denkanikottai. Though the petitioner has claimed the ownership of the property situated in Survey No. 754/4/2 in her said representation, but the petitioner has not filed any documents in the typed set of papers and she has filed only a copy of Patta which shows the property belongs to survey no. 754/4/3.

6. In the absence of any substantiative documents or revenue records before this Court to prove that the land in Survey No. 754/4/2 is not a common pathway, We are not inclined to grant any relief as sought for by the petitioner in the instant writ petition and the same is liable to be dismissed.



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7. Accordingly, the writ petition stands dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

(D.K.K., J.) (P.D.B., J.)

05.06.2023

Index: Yes / No

Internet: Yes

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To

The Executive Officer,
Denkanikottai Town Panchayat,
Denkanikottai Town & Taluk,
Krishnagiri District.



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AND
P. DHANABAL, J.

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