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W.P.No.24170 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.24170 of 2023

M.Palanisamy

...Petitioner

Vs.

1.The Commissioner,
Coimbatore Corporation,
Office of the Coimbatore Corporation,
Coimbatore.

2.The Assistant Commissioner
Coimbatore East Division,
Coimbatore Corporation Office,
Singanallur, Coimbatore.

3.The Assistant Executive Engineer,
East Divisional Office, Coimbatore Corporation,
Kalapatti, Coimbatore.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondent to disconnect the public water connection situated in his property comprised in S.No.709/2,3,



W.P.No.24170 of 2023

Kalapatti Village, Coimbatore Taluk, now bearing S.No.709/2A, 3A, measuring 5.04 Acres as sought vide representation 10.12.2019 and 15.07.2023.

For Petitioner : Mr.I.Kowser Nissar

For Respondents : Mr.K.M.D.Muhilan
Additional Government Pleader

ORDER

This Writ Petition is filed seeking a direction to the respondents to disconnect the public water connection situated in his property comprised in S.No.709/2,3, Kalapatti Village, Coimbatore Taluk, now bearing S.No.709/2A, 3A, measuring 5.04 acres by considering his representation dated 10.12.2019 and 15.07.2023.

2. Earlier, the petitioner moved this Court in W.P.No.25322 of 2021 seeking issue of patta in respect of the above said land. The said Writ Petition was dismissed with the observations that it was open to the petitioner to apply for patta after taking possession of the property in the manner known to law. The said order passed by this Court was challenged by the petitioner in



W.P.No.24170 of 2023

W.A.No.3020 of 2021 and the said Writ Appeal was disposed of by the Hon'ble First Bench of this Court with observations, which reads thus:

“2. The facts on record show that the appellant has filed a suit for specific performance against the vendor. The suit was decreed and the execution petition is still pending. Therefore, the learned Single Judge has given liberty to the appellant to apply for patta after taking possession of the land.

3. The aforesaid is one part. Otherwise, denial of patta was mainly for the reason that on the land in question, around 350 families are living by putting their respective titled and terraced houses. Thus, the land is not in the possession of the appellant. It has been observed that those families are in possession for more than 35 years. Inasmuch as, the appellant is not in possession of the land, thus, patta cannot be granted.

4. We do not know whether the appellant has filed a suit for possession against those who are in possession of the land in question. It is for the reason that till possession of the land is secured by the appellant in the manner known to law, the claim for issuance of patta cannot be determined and, therefore, the learned Single Judge has



W.P.No.24170 of 2023

WEB COPY

given liberty to the appellant to apply for patta before the first respondent, though it is in reference to the decree passed in the suit for specific performance against the vendor. Therefore, we need to clarify that ill possession of the land is taken by the appellant in the manner known to law, issuance of patta for the land in possession of others alleged to be for more than 35 years cannot be directed.

5. With the observation aforesaid, the Writ Appeal is disposed of without causing interference in the order of the learned Single Judge. There will be no order as to costs.”

3. It is obvious that the petitioner is not in possession of the above said land. From the reading of the order passed in the above Writ Appeal, it is clear that nearly 350 families are living in the said land over which, the petitioner is claiming right. Unless, the petitioner takes possession of the above said land in the manner known to law, it is not open to him to seek disconnection of public water connection, which is catering to the needs of 350 families living in that location. Therefore, the present representation submitted by the petitioner seeking disconnection of the public water connection cannot be ordered to be considered by the respondents. However,



W.P.No.24170 of 2023

the petitioner is entitled to seek disconnection of the water connection after taking possession of the property by following procedure established by law.

4. Accordingly, this Writ Petition is dismissed. No costs.

17.08.2023

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

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WEB COPY



W.P.No.24170 of 2023

S.SOUNTHAR, J.
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W.P No.24170 of 2023

17.08.2023