



Writ Petition No.24089 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

Writ Petition No.24089 of 2023

WMP.No.23565 of 2023

J.Kavitha

... Petitioner

Vs

1.The District Collector,
Vellore, Vellore District.

2.The Project Officer,
District Rural Development Agency,
Sathuvachari,
Vellore District – 632 009.

3.Block Development Officer,
Vellore Panchayat Union,
Vellore District – 632 009.

4.The President,
Thellur Panchayat,
O/o Thellur Panchayat,
Via Ussoor,
Vellore – 632 105.

... Respondents



Writ Petition No.24089 of 2023

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Mandamus forbear the respondents herein from constructing or erecting the over head water tank in the Village Road just opposite to the entrance of petitioner's patta land situated in Old Survey No.197/2A, Sub Division Survey No.197/37, Sarkar Grama Natham, Periya Thellur Village, Anaicut Taluk, Vellore District obstructing her ingress and egress to her property and consequently direct them to construct or erect over head water tank in alternative place in Periya Thellur Village, Anaicut Taluk, Vellore District.

For Petitioner : Mr.S.Vijayanand

For Respondents : Mr.P.Anandha Kumar
Government Advocate

ORDER

The petitioner herein seeks issuance of a Writ of Mandamus forbearing the respondents from constructing or erecting the over head water tank in the Village Road just opposite to the entrance of petitioner's patta land situated in Old Survey No.197/2A, Sub Division Survey No.197/37, Sarkar Grama Natham, Periya Thellur Village, Anaicut Taluk, Vellore District obstructing ingress and egress to her property and consequently direct them to construct or erect over head water tank in alternative place in Periya Thellur Village, Anaicut Taluk, Vellore District.



2. It is the case of the petitioner that she is the owner of land in S.No.197/37, the petitioner got the above said property under a settlement executed by his father on 20.12.2021. Even as per the boundary description mentioned in the affidavit, the petitioner's property is abutting common passage on the western side of her property. The four boundaries of the petitioner's property which reads as follows:

West by Chithathar's property and common path (passage) and on the East by Anbarasai and Premkumar's property, on the South by road on the North by Krishnmurthy's property.

3. Therefore, it is clear that the petitioner's property is abutting passage which is situated on the western side of his property. The 3rd respondent herein filed a counter stating that there was a old over head tank in Survey No.197/43 belonged to the Panchayat and the same was demolished four years back due to the dilapidated condition. Now in order to meet the demands of the villagers, the 4th respondent/Panchayat decided to put up new over head tank in the very same place where old over head tank stood in Survey No.197/43.



4. In the counter affidavit, it is stated by the 3rd respondent that the over head tank built up by the 3rd respondent in the property belongs to it in Survey No.197/43. The petitioner is a owner of an adjacent plot on the northern side. It is specifically pleaded in the counter that on the western side of the petitioner's property, there is a 20 feet wide street which joins village road running on the southern side. Further, the new over head tank has been built in the place of old over head tank on the southern side of the petitioner's plot.

5. In such circumstances, the contention made by the petitioner, the construction of over head tank is causing obstruction to the petitioner's ingress and egress cannot be accepted. It is very clear from the averments from the counter affidavit of the 3rd respondent and the photographs produced in the typed set of papers filed by the respondents, the petitioner has got access to street on the western side of her plot. Therefore, the ingress and egress of the petitioner is not at all affected.



Writ Petition No.24089 of 2023

6. In such circumstances, I do not find any reason to entertain

the writ petition. Consequently, the writ petition deserved to be dismissed.

In case petitioner claims any easementary right over the plot in which overhead tank is built, it is for him to approach Competent Civil Court for redressal of her grievances. With this observation, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.09.2023

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

ub

To

1. The District Collector,
Vellore, Vellore District.

2. The Project Officer,
District Rural Development Agency,
Sathuvachari,
Vellore District – 632 009.

3. Block Development Officer,
Vellore Panchayat Union,
Vellore District – 632 009.

4. The President,
Thellur Panchayat,
O/o Thellur Panchayat, Via Ussoor,
Vellore – 632 105.

5/6



WEB COPY



Writ Petition No.24089 of 2023

S.SOUNTHAR, J.

ub

Writ Petition No.24089 of 2023

13.09.2023