



WEB COPY



W.P. No. 32228 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 32228 of 2023

Mary Ilavarasi

... Petitioner

-VS-

1. The District Collector
Cuddalore District.

2. The Commissioner
Vadalur Panchayat
Vadalur.
Kurinchipadi Taluk
Cuddalore District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Respondents to remove the compound wall put up by the Second Respondent in the Petitioner's private land in an extent of 4368 square feet in Old Survey No.89/3, Velayuthanar Nagar, Abatharanapuram Village, Vadalur Panchayat, Cuddalore District and put her in vacant possession of the said land.

For Petitioner : Mr. J.Antony Jesus

For Respondents : Mr. U.Baranidharan, AGP (R1)

Mr. K.Suresh (R2)



W.P. No. 32228 of 2023

ORDER

WEB COPY

Heard Mr. J. Antony Jesus, Learned Counsel for the Petitioner, Mr. U. Baranidharan, Learned Additional Government Pleader appearing for the First Respondent and Mr. K. Suresh, Learned Counsel appearing for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The grievance ventilated by the Petitioner is that her private land measuring an extent of 4368 sq. ft. in Old Survey No. 89/3, Velayuthanar Nagar, Abatharanapuram Village, Vadalur Panchayat, Cuddalore District has been encroached by the Second Respondent for constructing a compound wall and seeks its removal from there in this Writ Petition.

3. In furtherance to the order dated 16.11.2023 passed by this Court, the Tahsildar, Kurinchipadi has, after inspection of the property, filed a report dated 17.12.2023 stating as follows:-

5. It is submitted that on verification of the records, it is found that one Thiru. Antony Peter, husband of the petitioner herein purchased 4368 square feet (10 cents) of land through Sale Deed



WEB COPY

document No.2186/2004 registered on the file of Sub Registrar, Vadalur and in the said Document the Schedule of property has been mentioned as “Old Survey No.89/3, Velayuthanar Nagar, Abatharanapuram Village”.

6. It is submitted that the District Collector, Cuddalore in his Lr. No. Na.Ka.V3/1568415/2023 dated 06.12.2023 directed me to conduct field inspection along with Surveyor and to survey the field as per the revenue records and to submit a report. Accordingly, I had inspected the land along with Taluk Surveyor and the Village Administrative Officer of Abatharanapuram on 29.11.2023 and 16.12.2023. On inspection, it is found that as per the records, in the land purchased by Thiru Anthony Peter husband of the present Writ Petitioner Tmt. Mary Ilavarasi and alleged that a compound wall is constructed, a layout has been laid in Old Survey No.102/2, New Survey No. 77/4 and Survey No. 78/5 vide Ma.Va./Na.Oo.E.No.665/1990 and the land has been allotted for “Park”. It is submitted that in the land allotted for Park, a compound wall has been constructed by Vadalur Municipality and a children Park has been set up.



WEB COPY

7. It is submitted that there is no connection between the land in Old Survey No.89/3, New Survey Nos. 76/3 and 76/4 purchased by Thiru Anthony Peter, husband of the present Writ Petitioner and the land in Old Survey No.102/2, New Survey No. 77/4 of Abatharanpuram village in which compound wall constructed by Vadalur Municipality. Thiru Anthony Peter husband of the present Writ Petitioner has purchased the land by mentioning wrong layout in the Sale Deed.

8. It is submitted that the land in Old Survey No. 89/3, New Survey No.76/3 and 76/4 purchased by Thiru Anthony Peter, husband of the present Writ Petitioner and the land in Old Survey No.102/2, New Survey No.77/4 of Abatharanpuram Village in which compound wall constructed by Vadalur Municipality is not at all connected with each other.

4. Having regard to the aforesaid explanation of the jurisdictional Tahsildar, which deserves acceptance, it is evident that the nature of relief claimed by the Petitioner falls within the realm of disputed questions of fact, which cannot be



W.P. No. 32228 of 2023

effectively determined by this Court in proceedings under Article 226 of the

Constitution following summary procedure. It must be recapitulated here that

the Hon'ble Supreme Court of India in the decision in *Roshina T. -vs- Abdul Azeez K.T.* [(2019) 2 SCC 329] has cautioned that such claims relating to property rights would have to be answered one way or the other only in a properly framed suit impleading necessary parties before the civil court. In such circumstances, the Petitioner has not been impeded from canvassing what is sought to be agitated in this Writ Petition in the aforesaid remedy and there is no acceptable explanation from the Petitioner for not having availed it. In that view of the matter, this Court is not inclined to entertain this Writ Petition or delve into the merits of the controversy involved.

In the result, the Writ Petition is disposed with the aforesaid observations.

No costs.

20.12.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 05.06.2024.

Maya

To

1. The District Collector
Cuddalore District.



W.P. No. 32228 of 2023

2. The Commissioner
Vadalur Panchayat
Vadalur.
Kurinchipadi Taluk
Cuddalore District.



WEB COPY



W.P. No. 32228 of 2023

P.D. AUDIKESAVALU, J.

Maya

W.P. No. 32228 of 2023

20.12.2023