



W.P. No. 31130 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

CORAM

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

W.P. No. 31130 of 2023

and

W.M.P. No. 30761 of 2023

C.K. Senthil Kumar

... Petitioner

-VS-

- 1.The District Collector,
Coimbatore District,
Coimbatore.
 - 2.The Assistant Director of Panchayat,
Coimbatore District,
Coimbatore District.
 - 3.The Tahsildar,
Pollachi Taluk,
Coimbatore District.
 - 4.The Block Development Officer,
Kinathukadavu Panchayat Union,
Pollachi Taluk,
Coimbatore District.
 - 5.The President,
Katampatti Village Panchayat,
Kinathukadavu Panchayat Union,
Pollachi Taluk,
Coimbatore District.
- Respondents

...



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, forbearing the respondents from putting up any construction abutting access to the Petitioner's patta land comprised in Survey No.321/12, measuring to an extent of 2.85 acres, situate at Katampatti Village, Pollachi Taluk, Coimbatore District, based on the petitioner's representation dated 09.10.2023 and to pass such orders.

For Petitioner : Mr. C.Prabakaran

For Respondents : Mr. U.Baranidharan,
Additional Government Pleader
(for R1 to R3)

Mrs. Geetha Thamaraiselvan
(for R4 and R5)

ORDER

Heard Mr. C.Prabakaran, Learned Counsel for the Petitioner, Mr. U.Baranidharan, Learned Additional Government Pleader for the First to Third Respondents and Mrs. Geetha Thamaraiselvan, Learned Counsel for the Fourth and Fifth Respondents and perused the materials placed on record, apart from the pleadings of the parties.



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2. The grievance ventilated by the Petitioner is that the Fourth and Fifth Respondents are making constructions in the land which abuts that of the Petitioner preventing free ingress and egress into his property, which has necessitated the filing of this Writ Petition to restrain them from putting up such construction.

3. In response, it is asserted by the Respondents that sufficient access has been provided to access the property of the Petitioner and his objections deserve only to be rejected.

4. Having regard to the nature of the aforesaid relief sought, it must be pointed out that the Hon'ble Supreme Court of India in the decision in ***Roshina T -vs- Abul Azeez K.T.*** [(2019) 2 SCC 329], has cautioned against determining disputed questions of fact relating to property rights in proceedings following summary procedure under Article 226 of the Constitution and that the same would have to be answered one way or the other only in a properly framed suit impleading necessary parties before the civil court.

5. In view of the aforesaid legal position, Learned Counsel for the Petitioner



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seeks permission of this Court to withdraw the Writ Petition with liberty to resort to the aforesaid procedure. He has also made an endorsement to that effect in the court record.

In fine, the Writ Petition is dismissed as withdrawn granting such liberty. Consequently, the connected Miscellaneous Petition is closed. No costs.

11.12.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy on 28.02.2024.

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To

1. The District Collector,
Coimbatore District,
Coimbatore.
2. The Assistant Director of Panchayat,
Coimbatore District,
Coimbatore District.
3. The Tahsildar,
Pollachi Taluk,
Coimbatore District.
4. The Block Development Officer,
Kinathukadavu Panchayat Union,
Pollachi Taluk,
Coimbatore District.



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5. The President,
Katampatti Village Panchayat,
Kinathukadavu Panchayat Union,
Pollachi Taluk,
Coimbatore District.



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P.D. AUDIKESAVALU, J.

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