



WEB COPY



W.P.No.33196 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.33196 of 2022
and
W.M.P.No.32607 of 2022

K.Baskaran

... Petitioner

VS.

1.District Collector, Tirupattur District,
Tirupattur

2.Commissioner,
Office of District Municipality, Ambur

3.Tahsildar, Ambur Taluk,
Ambur

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to follow due process of law before digging and laying underground pipelines in the petitioners property situate in S.No.29/1, S.No.32, S.No.249/5, S.No.306, S.No.655/1, S.No.655/2, S.No.B/8/77, S.No.B/9/7/2i, Ambur Taluk, Tirupattur District.



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For Petitioner : Mr.R.Subramanian

For R1 and R3 : Mr.C.Selvaraj
Additional Government Pleader

For R2 : Mr.V.Nanmaran
Additional Government Pleader

ORDER

The writ petition is filed seeking issuance of Writ of Mandamus, directing the respondents to follow due process of law before digging or laying underground pipelines in the petitioner's property in S.No.29/1, S.No.32, S.No.249/5, S.No.306, S.No.655/1, S.No.655/2, S.No.B/8/77, S.No.B/9/7/2i situated at Ambur Taluk, Tirupattur District.

2. According to the petitioner, his family members are co-owners of the above mentioned properties. The petitioner and other co-owners filed a suit in O.S.No.98 of 2003 on the file of District Munsif Court, Ambur for a declaration of title, declaration that the subdivision and demarcation of 29 cents as poramboke land in the above said survey number is invalid and void and for permanent injunction restraining the defendants therein from



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interfering with his possession. The respondents 1 and 2 were party to the said suit. The said suit came to be decreed and as per Clause-III of the decree, the respondents 1 and 2, who were arrayed as defendants 1 and 2 in the said suit were restrained by decree of injunction from interfering with the subject matter of the suit. The suit was filed in respect of lands of the petitioner in S.Nos.29/1, 32, 655/1, 655/2 and B/9/7/1.

3. The learned counsel appearing for the petitioner by taking this Court to the decree passed by Civil Court in O.S.No.98 of 2003, submitted that the respondents 1 and 2, who were parties to the said suit are not entitled to interfere with possession of the petitioner in view of the Civil Court decree operating against them. The learned counsel further submitted that the 3rd respondent being a subordinate of the 1st respondent, he is also bound by the decree.

4. Mr.C.Selvaraj, learned Additional Government Pleader appearing for the respondents 1 and 3 and Mr.V.Nanmaran, learned Additional Government Pleader appearing for the 2nd respondent based on the counter affidavit filed by the 1st respondent, submitted that the portion of the



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property belongs to the petitioner has been used as a poramboke road for more than seven decades and therefore, the petitioner is not entitled to the relief as prayed in the writ petition.

5. The petitioner has come up by way of this writ petition seeking a direction to respondents not to lay underground pipeline in his patta lands except by following due process of law. Though the petitioner prayed for relief in respect of 8 survey numbers, only 4 survey numbers mentioned in the prayer were found in the subject matter of the suit in O.S.No.98 of 2003. The said survey numbers which are covered by the decree in the Civil Court decree relied on by the petitioner are 29/1, 32, 306, 655/1 and 655/2. The petitioner has come up with this writ petition seeking limited relief directing the respondents not to interfere with his possession by digging up or laying underground pipeline in his land except by following due process of law. He has not sought for any relief against the general public. Therefore, this Court need not go to the question of right of the general public available in respect of the land mentioned above. The fact remains petitioner obtained a Civil Court decree against the respondents 1 and 2 and as per the decree, they are restrained from interfering with the petitioner's peaceful possession.



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Therefore, the petitioner is entitled to the relief prayed for in respect of the above said 5 survey numbers, which are covered by the Civil Court decree.

6. During the course of argument, it was admitted by both the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 and 3 that the pipeline has already been laid by the 2nd respondent in portion of the land belongs to the petitioner. The learned counsel for petitioner also submitted that if the 2nd respondent pays compensation in respect of the land in which pipeline is laid violating decree, the petitioner will be satisfied. In fact, the above said fact was admitted by 2nd respondent in his counter affidavit, which reads as follows:-

“7. I further submit that this project was executed by TWAD Board for a total length of 94 kms in all the streets of the Ambur Municipality. As part of this project, 90 meter length of pipe line for underground sewerage along was laid as stated in the petitioner's T.S.No.77, in Zone I, ward B, Block: 8, but not other survey numbers as stated in the prayer of the writ petition and the same is classified as Government poramboke Natarajapuram road in revenue records and 236 residents of the Natarajapuram around 1200 persons are using as road for the past 70 years and this is only access of



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the residence of the Natarajapuram to connect other part of the municipality and no other alternate road to complete the project underground pipe line was laid.”

7. The land in T.S.No.77 referred to in the counter affidavit of the 2nd respondent relates to Old S.No.655/2 and the same is gathered from the counter affidavit filed by the 1st respondent in Paragraph No.5 and the same reads as follows:-

“5. I submit that town Survey works were started in 1964 and completed in 1979. During the aforesaid town survey the above field was used as Natarajapuram road by common public. Hence the S.No.77, Old S.No.655/2 was registered as Natarajapuram Road in the revenue records.”

8. During the course of argument, the learned Additional Government Pleader also produced a copy of A-Register for the T.S.No.77. A perusal of the same would suggest that the relevant Old Survey Number for T.S.No.77 is 655/2 part. Therefore, it is clear from the counter affidavit of the 2nd respondent that a portion of the petitioner's property in T.S.No.77 equivalent to the Old S.No.655/2, a pipeline has been laid by the 2nd respondent to the



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length of 90 meters. When decree for injunction is operating against the respondents 1 and 2, they are not entitled to take law into their own hands and enter the property of the petitioner and lay pipeline.

9. In such circumstances, the 2nd respondent should either take steps to remove the pipeline laid in the petitioner's property or pay compensation to the petitioner for laying pipeline to the extent of 90 meters in T.S.No.77 (Old S.No.655/2).

10. In view of the discussions made earlier, this writ petition deserves to be allowed by directing the respondents not to disturb the possession of the petitioner in S.Nos.29/1, 32, 306, 655/1, 655/2 in Ambur Taluk, Tirupattur District, except by due process of law. The 2nd respondent is also directed either to remove the pipeline laid by it in T.S.No.77 to the length 90 meters or to pay compensation to the petitioner for the above said land by calculating the compensation at the rate of guideline value. The land in which pipeline is laid must be measured in the presence of petitioner (with length and breath) and extant of land used for laying pipeline has to be arrived at for the purpose of calculation of compensation. The direction



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issued in this writ petition for either removal of pipeline or payment of compensation shall be complied within a period of twelve weeks from the date of receipt of copy of this order.

11. With the above directions, the writ petition is allowed. No costs.

Consequently, the connected miscellaneous petition is closed.

27.09.2023

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
dm



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To

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1.District Collector, Tirupattur District,
Tirupattur

2.Commissioner,
Office of District Municipality, Ambur

3.Tahsildar, Ambur Taluk,
Ambur



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S.SOUNTHAR, J.

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