



W.P(MD)No.627 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.627 of 2023
and
W.M.P(MD)No.626 of 2023**

M.Karuppasamy

... Petitioner

VS.

- 1.The District Collector,
Office of the District Collector,
Thoothukudi District.
- 2.The Block Development Officer,
Kovilpatty,
Thoothukudi District.
- 3.The Tahsildar,
Office of the Tahsildar,
Ettaiyapuram,
Thoothukudi District.
- 4.The President,
Chithambarapuram,
Ettaiyapuram,
Thoothukudi District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India
praying for issuance of a Writ of Mandamus, directing the respondents 1 to

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3 to remove the encroachment made by the fourth respondent in the common well in Survey No.321/8 and public street in Survey No.321/9 by considering the representation of the petitioner, dated 14.12.2022.

For Petitioner : Ms.P.Jessi Jeeva Priya

For RR 1 & 3 : Mr.P.T.Thiraviyam
Government Advocate

For R – 2 : Mr.V.Nirmal Kumar
Government Advocate

For R – 4 : Mr.S.R.Rajagopal
for Mr.G.Thalaimutharasu

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The prayer in this Writ Petition is seeking for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to remove the encroachment made by the fourth respondent in the common well in Survey No.321/8 and public street in Survey No.321/9 by considering the representation of the petitioner, dated 14.12.2022.

2.According to the petitioner, the property situated in Chithambarapuram village, Ettaiyapuram Taluk, Thoothukudi District is

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ear-marked as a common well in Survey No.321/8 and a public street in Survey No.321/9. The fourth respondent had demolished the wall of the Tank in Survey No.321/8 and tried to encroach on the said property. Hence, the petitioner made a representation, dated 14.12.2022 to the respondents. But no action has been taken so far. Hence, the petitioner has filed the present Writ Petition.

3.The learned Government Advocate appearing for the respondents 1 & 3 has produced the communication of the third respondent in Na.Ka.No.A2/112/2023, dated 10.01.2023 addressed to him and submitted that the aforesaid Panchayat building was constructed in the year 1990 and there was no existing Well in the aforesaid property in Survey No. 321/8 as alleged by the petitioner. As far as Survey No.321/9 is concerned, as per the revenue records, it is classified as Government poramboke land. Since the Panchayat building is in a dilapidated condition, the Panchayat has obtained permission to demolish the existing Panchayat building and constructed the new Panchayat building in the aforesaid property. According to the learned Government Advocate, the contention of the learned counsel for the petitioner is totally contrary to the facts and circumstances of the case.

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4.The learned counsel appearing for the fourth respondent has drawn the attention of this Court by stating that the Panchayat building was constructed 40 years ago and the said building has become dilapidated. Therefore, they made a request for the construction of a new building and sanction has been granted by the District Collector in Na.Ka.No.A11/4903/2021, dated 13.01.2022 for the construction of the Panchayat building in the said property.

5.The learned counsel appearing for the fourth respondent further submitted that there is a private dispute between one Muniyasamy and the fourth respondent/C. Mathiselvi and due to the previous enmity, the instant Writ Petition has been filed at the instigation of one Muniyasamy.

6.Heard the learned counsel appearing on either side and perused the materials available on record.

7.The allegation of the petitioner is that the fourth respondent encroached upon the property in Survey No.321/8, which is a common well and Survey No.321/9, which is a public street.



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8.On a perusal of the materials available on record as well as the submission made by the learned counsel appearing for the fourth respondent, it is seen that there is no common well in Survey No.321/8 as alleged by the petitioner and earlier, it was only an existing Panchayat building and the Panchayat building is under construction and as per the revenue records, Survey No.321/9 is classified as a Government poramboke land. Therefore, the allegation of the petitioner is unfounded and we are not inclined to accept the contention of the petitioner and there is no merit in the Writ Petition.

9.Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes
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[D.K.K.,J.] [R.V.,J.]
10.01.2023



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D.KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

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ORDER MADE IN
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DATED : 10.01.2023