



W.P.(MD) No.10802 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.10802 of 2020

and

W.M.P(MD) No.9502 of 2020

1.M.Senthil Kumar

2.K.Sundaram

3.C.M.Ravikumar

4.S.Iyappan

5.S.Arun Prasad

6.A.Karthikeyan

... Petitioners

Vs.

1.The District Collector,
Karur District, Karur.

2.The Block Development Officer,
Thirukattuthurai Panchayat Union
Thirukattuthurai,
Karur District.

3.Thirukattuthurai Panchayat,
through its President,
Thirukattuthurai,
Karur District.

4.S.K.Karthick

... Respondents



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Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents 1 to 3 to provide basic amenities by laying road, drainage facilities as well as individual drinking water connections to the petitioners houses in R.S.Nagar (Thottam) in Survey No.32/5, Thirukattuthurai Village, now Punjai Pugazhur Taluk, Karur District by considering the petitioner's representation dated 19.02.2020 and 21.02.2020 respectively.

For Petitioner : Mr.M.P.Senthil

For R1 : Mr.D.Ghandiraj
Special Government Pleader

For R2 & R3 : Mrs.Bhagavathy

For R4 : Mr.R.Ponkarthikeyan

ORDER

The above writ petition has been filed for issuance of Writ of Mandamus, directing the respondents 1 to 3 to provide basic amenities by laying road, drainage facilities as well as individual drinking water connections to the petitioners' houses in R.S.Nagar (Thottam) in Survey No.32/5, Thirukattuthurai Village, now Punjai Pugazhur Taluk, Karur



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District by considering the petitioners' representation dated 19.02.2020 and 21.02.2020 respectively.

2. It is the case of the petitioners that they together with 7 other persons had purchased 14 plots from Shanmugasundaram, who had acted as the power agent of one Kaliasammal, to whom, the land measuring to a larger extent of 1.25 acres in Survey No.32/5, Thirukattuthurai Village belonged to. The petitioners would submit that the sale of the 14 plots took place in the years 2009, 2015, 2018 and 2019 respectively. Out of the 14 plots, six persons had constructed the houses and they are residing there. Some of them have also let out the property to third parties. It is the petitioners' contention that the original owner had sold the plots together with 25 feet road in front of their respective plots and this form part of the sale deed. The petitioners would submit that they had applied before the third respondent panchayat for building plan approval and the same has also been granted between year 2018 and 2019. The third respondent panchayat has provided them with the common water connection by providing four water tanks in the street. Despite their



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several requests for laying road, granting individual water connections and other drainage facilities, the authorities are not moving a little finger. While so, they were shocked to be informed by the third respondent panchayat in the first Week of August 2020 that the four water connection was to be disconnected. This was on account of the fact that the original owner had not handed it over the common area including the road to the third respondent panchayat. Therefore, the petitioners come forward with the above writ petition.

3. A counter has been filed by the respondents 1 and 2, wherein they have stated as follows:-

As stated above the said vendor of the property Kaliammal has filed a suit in O.S.No.65 of 2021 before the District Munsif, Karur against one Sundaram, including the District Collector, Karur and official respondents herein, seeking direction to remove the encroachment over the property i.e., pathway in respect of S.No.32/5. Because of the Civil Suit the respondents herein have not able to provide facilities as required by the petitioners.



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4. A copy of the plaint has also been filed by the fourth respondent, a reading of which would clearly show that the dispute is with reference to the street, over which the petitioners seek a claim for having the water connection, swage connection etc.

5. Heard the learned counsel appearing on either side and perused the records.

6. When the issue of ownership is the subject matter of the suit, this Court cannot grant a mandamus against the respondents. In fact, a perusal of the sale deed executed in favour of the petitioners would also indicate that what has been conveyed to them is only a right of passage over this street, which ultimately leads to the remaining private property of said Kaliammal. Therefore, the parties have to workout their rights before the civil Court.

7. In the result, this Writ Petition is dismissed. However, it is informed that the petitioners have been enjoying an injunction restraining



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the respondents 1 to 3 from disconnecting the water connection that the petitioners are now enjoying. This interim order will continue till the disposal of the suit. No costs. Consequently, connected miscellaneous petition is closed.

16.06.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

1.The District Revenue Officer,
Office of the District Revenue Officer,
Tuticorin District,
Tuticorin.

2.The Revenue Divisional Officer,
Kovilpatti Revenue Division,
Tuticorin District.

3.The Tahsildhar,
Vilathikulam Taluk,
Tuticorin District.



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P.T.ASHA, J.

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