



W.P.(MD)No.8989 of 2014

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :09.01.2023

CORAM

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.(MD)No.8989 of 2014

and

M.P.(MD).No.1 of 2014

Muthu

... Petitioner

Vs.

1.The District Collector,
Pudukottai.

2.The Block Development Officer,
Office of the Panchayat Union,
Ponnamaravathi Post & Taluk,
Pudukottai District.

3.The President,
Mullipatti Village Panchayat,
Mullipatti,Melathaniyam Post,
Ponnamaravathi Taluk,
Pudukottai District.

4.Aviyammal

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus forbearing the 3rd respondent to remove the borewell put up in front of the petitioner's house in S.F.No.



W.P.(MD)No.8989 of 2014

120/39 of Mullipatti Village, Ponnamaravathi Taluk, Pudukottai District.

WEB COPY

For Petitioner :Mr.P.Ganapathi Subramanian
For Respondents :Mr.M.Prakash
Additional Government Pleader for R1 & R2
:Mr.K.P.Krishna doss for R3
:No appearance for R4

ORDER

The present writ petition has been filed seeking for a writ of mandamus for directing the 3rd respondent to remove the bore well put up in front of the petitioner's house in Survey No.120/39 at Mullipatti Village, Ponnamaravathi Taluk, Pudukottai District.

2.The case of the petitioner is that the property comprised in Survey No.120/39, classified as Natham to an extent of 0.02 ares of Mullipatti Village, Ponnamaravathi Taluk, belongs to his ancestors and they are in possession and enjoyment of the said property for a very long time. He would further submitted that to approach his residence on the southern side of the house, there is a public street and there is no other alternate path way to his house. He would also submit that there is a long standing



W.P.(MD)No.8989 of 2014

WEB COPY

enmity between the petitioner's family and the 4th respondent herein. The 4th respondent with the help of the 3rd respondent had attempted to dig a bore well in the petitioner's land, which was opposed by the petitioner and thereafter, they had tried to dig a bore well in front of the petitioner's house, thereby causing inconvenience to the petitioner's property. He would further submit that when the petitioner was away, the 3rd respondent, on the instigation of the 4th respondent, had dug the bore well in front of the petitioner's property. In spite of repeated representations, no action has been taken. Therefore, he approached this Court by way of filing this writ petition.

3. Countering his arguments, the learned Additional Government Pleader would submit that the bore well has not been dug in the petitioner's property and it has been only dug in the public land, which is shown as a pathway. The bore well has been dug by considering the public welfare for providing water to the residences of the locality. Hence, the petitioner cannot be said to be aggrieved against the same.



W.P.(MD)No.8989 of 2014

WEB COPY

4.The learned counsel appearing for the 3rd respondent Panchayat would submit that the bore well has been dug two meters away from the petitioner's property and in support of such factual submission, he had also produced a copy of the certificate issued by the Village Administrative Officer, Melathaniyam Post, Ponnamaravathy Taluk, Pudukottai District.

5.I have considered the rival submissions made on either side.

6.According to the said report, the bore well is in Survey No. 120/23, has been dug in a land classified as a sarkkar poramboke. A FMB sketch of survey No.120 has also been produced along with the typed set filed by the 3rd respondent. It is the case of the petitioner that the petitioner's property has been assigned in Survey No.120/39 and from the sketch, it could be seen that the survey No.120/39 is a corner property having road running East to West as well as North to South and the bore well has been laid on the road two meters away from the property of the petitioner in the road, which is running North to South of the property.



W.P.(MD)No.8989 of 2014

WEB COPY

7.In the light of the above factual position, I am of the considered view that ingress and egress of the petitioner to his property, by any stretch of imagination could not be affected. In such circumstances, I am not inclined to grant the relief as prayed for in this writ petition. Hence, this writ petition stands dismissed. However, no order as to costs. Consequently, connected miscellaneous petition is also closed.

09.01.2023

Index : Yes / No
Speaking Order/Non Speaking Order
sbm

To

- 1.The District Collector,
Pudukottai.
- 2.The Block Development Officer,
Office of the Panchayat Union,
Ponnamaravathi Post & Taluk,
Pudukottai District.
- 3.The President,
Mullipatti Village Panchayat,
Mullipatti,Melathaniyam Post,
Ponnamaravathi Taluk,
Pudukottai District.



WEB COPY



W.P.(MD)No.8989 of 2014

K.KUMARESH BABU, J.

sbn

W.P.(MD)No.8989 of 2014
and
M.P.(MD).No.1 of 2014

09.01.2023