



W.A(MD)No.173 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A(MD)No.173 of 2023
and
C.M.P(MD)No.2223 of 2023**

1.A.Senaman
2.S.Rajendraprasath ... Appellants/Respondents 3 & 4

vs.

1.G.Gurusamy ... 1st Respondent/Petitioner

2.The District Collector,
Theni District.

3.The Tahsildar,
Uthamapalayam Taluk,
Theni District.

... Respondents 2 & 3/
Respondents 1 & 2

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 29.08.2022 passed in W.P(MD)No.1066 of 2022, on the file of this Court.



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For Appellants : Mr.G.Prabhu Rajadurai
for Mr.I.Robert Chandrakumar

For R – 1 : Mr.S.Ajmal Khan

For R – 2 : Mr.K.Balasubramani
Special Government Pleader

JUDGMENT

[Judgment of the Court was made by D.KRISHNAKUMAR, J.)

Challenging the order passed by the learned Single Judge in W.P(MD)No.1066 of 2022, dated 29.08.2022, the appellants/respondents 3 and 4 have filed the instant Writ Appeal.

2.The first respondent/writ petitioner has filed the Writ Petition in W.P(MD)no.1066 of 2022, directing the second respondent to survey the land situated in Survey No.319 in Seepalakottai Village, Uthamapalayam Taluk, Theni District, based on the representation of the petitioner, dated 04.01.2022.

3.This Court, by order, dated 29.08.2022, disposed of the Writ Petition. Aggrieved over the same, the respondents 3 and 4 as appellants have filed the present Writ Appeal.



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4.The learned counsel appearing for the appellants/respondents 3 and 4 submitted that the property comprised in Survey No.319 is classified as a "odai poramboke". The appellants/respondents 3 and 4 have filed a suit in O.S.No.177 of 2021 on the file of the learned District Munsif, Uthamapalayam, Theni District, for the relief of permanent injunction against the first respondent/writ petitioner in respect of the property comprised in Survey No.316/3, which is the adjacent land to the property comprised in Survey No.319 and the same is pending. Without considering the same, the Writ Court has passed the impugned order.

5.The learned Special Government Pleader appearing for the second respondent submitted that the order passed by the Writ Court has been complied with and survey has been conducted and therefore, at this stage, the prayer sought for in the Writ Appeal has become infructuous.

6.At this juncture, the learned counsel appearing for the appellants/respondents 3 and 4 seeks liberty to file an appeal before the Appellate Authority.



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7. In view of the above, this Writ Appeal is dismissed. However, liberty is granted to the appellants to raise all the grounds before the Appellate Authority, in the manner known to law, if so advised. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,J.] & [L.V.G.,J.]
28.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

- 1.The District Collector,
Theni District.
- 2.The Tahsildar,
Uthamapalayam Taluk,
Theni District.



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D.KRISHNAKUMAR,J.

and

L.VICTORIA GOWRI,J.

ps

**ORDER MADE IN
W.A(MD)No.173 of 2023**

28.02.2023