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W.P. No. 1272 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 1272 of 2024

and

W.M.P. Nos. 1324 to 1326 of 2024

Mohammad Hanif

... Petitioner

-VS-

1. The District Collector
Fort Main Road
Salem District – 636001.

2. The Tahsildar
Attur Road
Gangavalli Taluk
Salem District – 636105.

3. Gangavalli Town Panchayat
Rep. By its Commissioner
Gangavalli
Salem District – 636105.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the Tender Notice dated 22.11.2023 passed by the Third Respondent and quash the same.

For Petitioner : Mr. K.M.Barathkumar

For Respondents : Mr. B.Vijay, AGP (RR1 & 2)

Mr. M.Muthusamy (R3)



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ORDER

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Heard Mr. K.M.Barathkumar, Learned Counsel for the Petitioner, Mr. B.Vijay, Learned Additional Government Pleader, who takes notice for the First and Second Respondents and Mr. M.Muthusamy, Learned Counsel, who takes notice for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. It is the case of the Petitioner that he along with 14 others are the owners of the property of an extent of 4.97 acres in Survey No. 17, Gangavalli Village, Attur Taluk, Salem District, but the Third Respondent treating it to be a water body (குட்டை) has issued the Notification in Na. Ka. No. 202/2023 dated 22.11.2023 calling for e-tender for its maintenance, which is challenged in this Writ Petition.

3. It is evident that the nature of relief claimed by the Petitioner falls within the realm of disputes question of fact, which cannot be effectively determined by this Court in proceedings under Article 226 of the Constitution following summary procedure. It must be recapitulated here that the Hon'ble Supreme Court of India in the decision in **Roshina T. -vs- Abdul Azeez K.T.** [(2019) 2 SCC 329] has cautioned that such claims relating to property rights would have



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to be answered one way or the other only in a properly framed suit impleading necessary parties before the civil court. It is needless to add here that no view has been expressed by this Court on the merits of the controversy involved.

In the result, the Writ Petition is disposed with the aforesaid observations. Consequently, connected Miscellaneous Petitions are closed. No costs.

22.01.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 31.05.2024.

Maya

To

1. The District Collector
Fort Main Road
Salem District – 636001.
2. The Tahsildar
Attur Road
Gangavalli Taluk
Salem District – 636105.
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P.D. AUDIKESAVALU, J.

Maya

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22.01.2024