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W.P.No.31794 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2024

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THE HONOURABLE MR. JUSTICE S. SOUNTHAR

W.P No.31794 of 2024

Vasantha
...Petitioner

Vs.

1. The Revenue Divisional Officer,
Chidambaram, Cuddalore District.
 2. The Tahsildhar,
Chidambaram, Cuddalore District.
 3. Ramalingam
 4. Anandhi
- ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 03.09.2024 passed by the first respondent in Na.Ka.A1/2343/2024 and quash the same and consequentially directing the first respondent to protect the north-south water channel that lies on the eastern portion of Survey number 53/5 to irrigate the petitioner land in Survey No.55/2A1 with an extent of 0.52.0 Hec. in Sivaiyam Village, Chidambaram



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Taluk, Cuddalore District.

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For Petitioner : Mr.J.Titus Enock

For R1 & R2 : Mr.A.Selvendran
Special Government Pleader

ORDER

The petitioner herein has filed this writ petition challenging the order passed by the first respondent under section 4 of Tamil Nadu Irrigation Works (Construction of Field Bothis) Act 1959, negating the prayer of the petitioner to form Field Bothis in the 52 ares of land sold by him to respondents 3 & 4 in survey field no.53/5.

2. By consent of both the learned counsel appearing for the petitioner as well as respondents 1 & 3, this writ petition is disposed of at the admission stage itself.

3. It is the case of the petitioner that he owned 52 ares of land in survey No.53/5 and 52 ares of land in survey no.55/2A1 in Sivaiyam Village, Chidambaram Taluk, Cuddalore District. The land situated in survey No.53/5 is abutting the PWD irrigation channel. The land situated in survey no.55/2A1 is situated away from the channel. In between the land in survey no.55/2A1 and PWD channel, land survey No.53/5 is situated. The petitioner sold the



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land in survey No.53/5 in favour of the respondents 3 and 4. After purchase the respondents 3 and 4 prevented water flow to the petitioner's retained portion of land in survey no.55/2A1 through the survey no.53/5. Therefore, the petitioner submitted a representation before the first respondent seeking forming of Field Bothis as per the provision of Tamil Nadu Irrigation Works (Construction of Field Bothis) Act in the land sold to the respondents 3 and 4.

4. It is submitted by the learned counsel for the petitioner that under provision of Tamil Nadu Irrigation Works (Construction of Field Bothis) Act, the first respondent is entitled to issue a direction to the respondents to form the field bothis to enable the petitioner to get the water from nearby PWD channel and the same has not been properly considered by the first respondent. Aggrieved by the same, the petitioner is before this Court.

5. The learned counsel appearing for the petitioner relying on the provisions of the Tamil Nadu Irrigation Works (Construction of Field Bothis) Act submitted that the first respondent shall issue direction to the respondents 3 and 4 to form a channel in the property purchased by them to enable the petitioner to irrigate her land.

6. Against the order impugned in the writ petition, a statutory appeal



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remedy is available to the petitioner under section 5 of Tamil Nadu Irrigation Works (Construction of Field Bothis) Act 1959. Therefore, this Court is not inclined to entertain this writ petition and accordingly, this writ petition is dismissed with liberty to avail the alternative remedy of appeal. The petitioner is directed to file an appeal before the District Collector, Coimbatore, within a period of two weeks from the date of receipt of a copy of this order. The District Collector shall consider the appeal filed by the petitioner in the light of the Section 3 to 5 of Tamil Nadu Irrigation Works (Construction of Field Bothis) Act 1959, and pass final orders, on it's own merits, after issuing notice to the petitioner and the respondents 3 & 4 and any other interest parties, within a period of twelve weeks from the date of filing of appeal.

7. With the above direction, this Writ Petition is disposed of. No costs.

30.10.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
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To



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The Writ Petition is listed under the caption 'For Being Mentioned' at the instance of learned counsel for the petitioner.

2. It is brought to the notice of this Court that in Paragraph No.6 of the order dated 30.10.2024, the Appellate Authority was mentioned as 'District Collector, Coimbatore' instead of 'District Collector, Cuddalore'.

3. The Registry is directed to substitute the expression 'District Collector, Coimbatore' as 'District Collector, Cuddalore' in Paragraph No.6 of the order dated 30.10.2024 and issue fresh order copy to the learned counsel for the petitioner.

03.12.2024

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Note: Issue order copy on 04.12.2024.



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