



W.P.(MD)No.12963 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.12963 of 2022

and

W.M.P.(MD)No.9208 of 2022

Karuppaiyan

... Petitioner

Vs.

1.The Sub Divisional Magistrate cum
Revenue Divisional Officer,
Pattukottai, Thanjavur District.

2.Chithra

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings in Na.Ka.No.2546/2022/A3 dated 11.06.2022 on the file of the first respondent/Sub Divisional Magistrate cum Revenue Divisional Officer, Pattukottai, Thanjavur District and quash the same as illegal, without jurisdiction and consequently, forbearing the first respondent from passing orders under Section 133 of Cr.P.C. in respect of the petitioner's patta land in S.No.221/5 admeasuring an extent of 51/2 cents situated at Pokkanviduthi Village, Thiruchitrampalam West, Pattukottai Taluk, Thanjavur District.

For Petitioner : Mr.D.R.Murugesan



W.P.(MD)No.12963 of 2022

For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor for R1

Mr.R.Senthilkumar for R2

ORDER

This Writ Petition has been filed to quash the proceedings in Na.Ka.No. 2546/2022/A3 dated 11.06.2022 on the file of the first respondent/Sub Divisional Magistrate cum Revenue Divisional Officer, Pattukottai, Thanjavur District and for consequential direction to the first respondent from passing orders under Section 133 of Cr.P.C. in respect of the petitioner's patta land in S.No.221/5 admeasuring an extent of 51/2 cents situated at Pokkanviduthi Village, Thiruchitrampalam West, Pattukottai Taluk, Thanjavur District.

2.The petitioner claims that he is the owner of the property in S.No.221/5 admeasuring to an extent of 51/2 cents, in which, the first respondent has passed an order under Section 133 of Cr.P.C., allowing the other persons to use it as a pathway. Aggrieved by the same, the petitioner has filed the present petition before this Court.

3.The learned counsel for the petitioner would submit that the petitioner is the owner of the property in S.No.221/5 of an extent of 5 ½ cents, in which,



W.P.(MD)No.12963 of 2022

the first respondent passed the restraining order as against the petitioner and when the patta land is owned by the petitioner, in which, the first respondent has no *locus standi* to pass an order under Section 133 of Cr.P.C. Accordingly, he prayed for allowing this petition.

4.The learned Additional Public Prosecutor appearing for the first respondent would submit that the first respondent has well within the power to pass the restrained order under Section 133 of Cr.P.C. The present impugned order relates to S.Nos.221/4A, 221/5A, 221/25 and 221/26 for a width of 2 mtr., and 1 mtr., which were used for taking the water from the borewell pump, in which, the petitioner is not entitled. However, a false claim made by the petitioner before this Court is not a sustainable one.

5.On perusal of the entire records, it reveals that the petitioner claimed owner of the property in S.No.221/5, to an extent of 5 ½ of cents, whereas the restrained order passed under Section 133 of Cr.P.C. relates to S.Nos.221/4A, 221/5A, 221/25 and 221/26, which does not belong to the petitioner. Hence, the prayer sought for in the present writ petition cannot be granted.



W.P.(MD)No.12963 of 2022

6.In view of the above observations, the Writ Petition is dismissed with liberty to the petitioner to work out his remedy before the competent civil Court, if he has title over the property. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes/No

Internet : Yes/No

NCC : Yes/No

Sji

02.02.2024

To

1.The Sub Divisional Magistrate cum
Revenue Divisional Officer,
Pattukottai, Thanjavur District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



W.P.(MD)No.12963 of 2022

M.DHANDAPANI, J.

Sji

W.P.(MD)No.12963 of 2022

02.02.2024