



W.P.(MD) No.1566 of 2014

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD)No.1566 of 2014
and M.P.(MD)No.1 of 2014

A.Akila

... Petitioner

Vs.

1.The District Collector,
Theni District.

2.The Commissioner,
Theni Alli Nagaram Municipality,
Theni.

3.The Chairman ,
Theni Alli Nagaram Municipality,
Theni.

4.The Superintendent of Police,
Theni District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents herein to demolish the concrete



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construction in the pit illegally dug up by the respondents 3 & 4 herein and their personnels and close the hollow pit at their own cost in the petitioner's house site at 9th Street, forest Road, Theni District, comprised in S.No.241/3, covered by Gift deed dated 22.12.2009 vide Doc. No.10449 of 2009 on the file of office of Sub Registrar, Theni and award suitable compensation for illegal trespass, causing damage to the property and for the mental agony and for litigation cost of the petitioner.

For Petitioners : Mr.K.Appadurai

For Respondents : Mr.N.Satheesh Kumar,
Addl. Govt. Pleader for R1 & R3
Mr.G.Kaleeswaran for R2
Mr.R.Meenakshi Sundaram for R4

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition has been filed for the issuance of a Writ of Mandamus, directing the respondents herein to demolish the concrete construction in the pit illegally dug up by the respondents 3 & 4 herein and their personnels and close the hollow pit at their own cost in the petitioner's house site at 9th Street, forest Road, Theni District, comprised in S.No.241/3, covered by Gift deed dated



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WEB 22.12.2009 vide Doc. No.10449 of 2009 on the file of office of Sub Registrar, Theni and award suitable compensation for illegal trespass, causing damage to the property and for the mental agony and for litigation cost of the petitioner.

2. According to the petitioner, the property in S.No.241/3 has been bequeathed under a registered Will dated 23.08.1977 vide Doc.No.13 of 1977 on the file of Sub Registrar, Theni to the petitioner's mother. Thereafter, by way of a registered deed of settlement dated 22.12.2009, the said property has been settled to the petitioner vide Doc.No.10449 of 2009. Mutation of the revenue records has also been effected in the name of the petitioner. However, the respondents 3 and 4 have illegally trespassed into the property owned by the petitioner and constructed the hollow pit. Hence, the petitioner has filed this Writ Petition.

3. The second respondent has filed a counter affidavit, in which it is stated that the property in S.No.241/3 has been classified as Government Poramboke land. It is further stated in the counter affidavit that the respondents



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have started the work of underground drainage at the land belongs to the Government only and no other private property has been disturbed by the respondents. Therefore, this Writ Petition is liable to be dismissed.

4. Considering the submissions made by both sides, we are of the view that the petitioner has not produced any relevant and specific materials to show that the property in question belongs to the petitioner. Therefore, there is no merit in this Writ Petition.

5. Accordingly, this Writ Petition is dismissed. However, liberty is granted to the petitioner to work out his remedy before the appropriate forum if any dispute regarding the right over the property. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] [M.S.K., J.]
08.01.2024

Neutral Citation: Yes / No
Index : Yes / No
vsm



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