



W.P(MD)No.30680 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.01.2024

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.30680 of 2023

Vellaichamy

... Petitioner

-Vs-

1.The District Collector,
Ramanathapuram,
Ramanathapuram District.

2.The Block Development Officer,
Ramanathapuram Union,
Ramanathapuram District.

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents to demolish the partly constructed Well and consequently forbearing the respondents from constructing a Well or any other structures in the petitioner's property bearing S.No.156/3, Devipattinam Village, Ramanathapuram District by considering the representation of the petitioner dated 30.11.2023.

For Petitioner
For Respondents

: Mr.S.Selva Adhithya
: Mr.SRA.Ramachandran
Addl. Govt. Pleader



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ORDER

This writ petition is filed seeking for issuance of a Writ of Mandamus directing the respondents to demolish the partly constructed Well and consequently forbearing the respondents from constructing a Well or any other structures in the petitioner's property bearing S.No.156/3, Devipattinam Village, Ramanathapuram District by considering the representation of the petitioner, dated 30.11.2023.

2. The case of the petitioner is that the subject matter property bearing S.No.156/3 situated at Deveipattinam Group, Ramanathapuram District belonged to his grandfather vide registered sale deed 16.01.1913. After his death, the property devolved upon the petitioner's father and his brother. The petitioner's paternal uncle predeceased his father without marrying and as such, the aforesaid property devolved upon the petitioner's father. In the year 2009, the petitioner's father bequeathed the subject matter property along with many other properties in his favour vide Will dated 10.06.2008. Thereafter, his father passed away on 05.01.2009 and the Will was brought into effect and accordingly, the properties were devolved upon the petitioner. When the said Will was presented for registration, the same was



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refused by the authorities. Hence, he filed a writ petition in W.P(MD)No. 15950 of 2021. This Court vide order dated 09.09.2021 allowed the said writ petition. Thereafter, the said Will was registered. While so, the second respondent has, all of a sudden, started to construct a Well in the petitioner's property. Though he has produced title documents and Will, the second respondent, without considering the aforesaid documents, insisted him to produce patta. Hence, the petitioner submitted a representation dated 30.11.2023 before the respondents to demolish the partly constructed Well and not to construct any new Well in his property. Since the said representation is not considered till date, he filed the present writ petition seeking the above said relief.

3. The learned Additional Government Pleader appearing for the respondents would submit that the first respondent/District Collector by proceedings dated 25.09.2023 issued an order to make a drinking water facilities to the Devipattinam village, wherein the subject matter proper is situated. As per the said order, the second respondent started work. He has also produced a copy of the said proceedings dated 25.09.2023.



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4. It is seen that the petitioner's grandfather purchased the subject matter property from one Muthukaruppa Mukkanthar vide document dated 16.01.1913, wherein, schedule of property and boundaries have been mentioned, however, survey number has not been mentioned. However, in the Will dated 10.06.2008, totally 14 items of properties have been mentioned, in which, the subject matter property mentioned as 11th item, wherein, S.No.156/3 has been mentioned. The said Will was also registered pursuant to the order of this Court, dated 09.09.2021. Hence, the petitioner is seeking the aforesaid relief. However, the second respondent insisted the petitioner to produce patta. The application regarding issuance of patta is pending.

5. In view of the above fact, without going into the merits of the claim made by the petitioner in this Writ Petition, the respondents are directed to consider the representation of the petitioner dated 30.11.2023 and pass appropriate orders on the same on merits and in accordance with law, after giving notice to the interested parties, if any, within a period of sixteen weeks from the date of receipt of a copy of this order.



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costs.

6. With the above directions, this writ petition is disposed of. No

05.01.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

skn

To

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Ramanathapuram,
Ramanathapuram District.

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V.BHAVANI SUBBAROYAN, J.

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