

(2016) 08 MAD CK 0105
In the Madras High Court
Case No : W.P.(MD) No. 4704 of 2016

Amutha

APPELLANT

Vs

Executive Officer

RESPONDENT

Date of Decision : 08-08-2016

Acts Referred:

Citation : (2017) 169 AIC 648 : (2016) 7 MLJ 329

Hon'ble Judges : Mr. M. Venugopal, J.

Bench : Single Bench

Advocate : Mr. K. Govindarajan, Advocate, for the Petitioner; Mr. G. Muthukannan, Special Govt. Pleader, for the Respondent No. 1; Mr. F. Deepak, Advocate, for the Respondent No. 2

Final Decision : Disposed Off

Judgement

Mr. M. Venugopal, J.— Heard both sides.

2. No counter is filed on behalf of the Second Respondent. However, counter of R1 is filed.

3. According to the Petitioner, her house is situated in Natham Survey Nos.781/73 & 781/74 and for her house, Property Tax is collected by the Town Panchayat, under Assessment No.2487. The electricity supply is under SC.No.669. The House Tax stands in the name of her mother. The Village Administrative Officer had given a certificate regarding her right over the aforesaid property. There is no dispute on these facts. However, in order to reach her house from Harijan Street, a lane is available, which is in S.No.781/71. As a matter of fact, the Second Respondent is residing in Natham S.No.781/72 and the Second Respondent is none other than sister of Petitioner's father.

4. The stand of the Petitioner is that through the lane available in S.No.781/71, she is reaching her house and during the year 2004, she approached the First Respondent / Executive Officer, Thathaiyangarpettai Town Panchayat, Musiri Taluk, Trichy District, for providing drinking water supply through the aforesaid

lane. However, the Second Respondent had objected vehemently, as regards the laying of water pipeline through the lane, on the ground that the same is her property. The family dispute is the reason behind the obstruction raised by the Second Respondent. In fact, the Revenue Divisional Officer, Musiri, after spot inspection, during the year 2004 and based on the records, by proceedings, dated 14.01.2004, informed the First Respondent that S.No.781/71 is a lane and advised the First Respondent to proceed with the water connection to the Petitioner's house through the lane. As such, water supply was provided to her house in the year 2004. She is regularly paying the drinking water charges to the First Respondent, without any default.

5. It comes to be known that in the month of January 2016, the underground water pipeline is damaged and the Petitioner had requested the First Respondent to carry-out the repair and re-lay the underground pipeline passing through the common lane. Based on her request, the First Respondent commenced work on the lane and the same was again obstructed by the Second Respondent, without any lawful claim on the lane.

6. On 15.02.2016, the Petitioner submitted a petition, in person, to the First Respondent, to repair the drinking water supply line. Again the First Respondent approached the Revenue Divisional Officer, Musiri. The Revenue Divisional Officer, Musiri, through communication, dated 27.02.2016, informed the First Respondent that S.No.781/71 is only a lane, as per record and the Town Panchayat may proceed to repair the water pipeline, even with the aid of Police. From that it is quite clear that S.No.781/71 is only a lane, as per the Revenue records and that the First Respondent need not give importance to the obstruction made by the Second Respondent.

7. It transpires that a Second Appeal in S.A.No. 1042 of 2003 filed by the Second Respondent against the Petitioner's mother is pending and the same is relates to S.No.781/74 alone. Further, except the lane in S.No.781/71, no other way is available to reach her house and to extend drinking water supply. Moreover, the repair work started by the First Respondent was in half the way and it was stopped based on obstruction of the Second Respondent and as such, she is suffering hardship. Also that, she alleged a complaint before the Thathaiyangarpettai Police Station, against the Second Respondent. Left with no other option, she has approached this Court and filed the present Writ Petition.

8. In response, the Learned Government Advocate appearing for the First Respondent/Executive Officer, Thathaiyangarpettai Town Panchayat, Musiri Taluk, Trichy District, submits that the Second Petitioner is the Petitioner's paternal Aunt, sister of her father and she was residing in S.No.781/72. The enjoyment of the property and way to reach the Petitioner's property and that of the Second Respondent are in different survey numbers and have no nexus and dispute with the same.

9. Further, the Learned Government Advocate for the First Respondent submits

that already a civil proceedings are pending only with regard to S.No.781/74. In fact, it was found out by the Revenue Divisional Officer, Musiri, on a spot inspection that S.No.781/71 is the lane in Government Poromboke land, as per revenue records and therefore, by means of proceedings, dated 14.01.2004, directed to effect supply of drinking water, by laying pipeline through S.No.781/71 and accordingly, drinking water supply was immediately effected by the First Respondent.

10. The Learned Government Advocate for the First Respondent contends that the First Respondent had facilitated the Petitioner to rectify the repair and again the Second Respondent came with men and prevented the personnel of the First Respondent from carrying out the repair to facilitate supply of drinking water to the Petitioner. In fact, the Second Respondent repeatedly makes her objection that enjoyment of S.No.781/71 itself is pending adjudication in Second Appeal before this Court and without the Second Appeal reaching its finality, no interference of possession can be made either by the Petitioner or by the First Respondent. Moreover, the First Respondent is ready to do the work and in fact, the First Respondent had already sent its personnel to carry-out the repair work. However, due to strong physical objection on ground, the First Respondent and his men are unable to carry-out the repair work.

11. Apart from the above, the Learned Government Advocate for the First Respondent brings it to the Notice of this Court that S.No.781/73 and S.No.781/74 relate to Petitioner. The Petitioner's property in S.No.781/72 is the Petitioner's own land and S.No.781/71 belongs to Government Poromboke. Only in respect of S.No.781/71, the Petitioner seeks for induction of pipeline for her drinking water supply. As such, it is represented on behalf of the First Respondent that pending S.A.No.1042 of 2003 has nothing to do with the Lis in the present Writ Petition.

12. It transpires that the Petitioner has sought for restoration of water supply connection to her house, bearing D.No.46, Harijan Street, Thathaiyangarpettai Town Panchayat, Musiri Taluk, Trichy District. It is also represented on behalf of the Petitioner that already there is a water connection to the Petitioner's house, but only the pipelines were damaged during rainy season and in this regard restoration work is to be carried out by the First Respondent/Executive Officer, Thathaiyangarpettai Town Panchayat, Musiri Taluk, Trichy District.

13. Considering the fact that the Petitioner's request, as sought for by her in the Writ Petition viz., for passing of an order by this Court in directing the First Respondent/Executive Officer, Thathaiyangarpettai Town Panchayat, Musiri Taluk, Trichy District, to restore the water supply connection to her house, bearing Door No.46, Harijan Street, Thathaiyangarpettai Town Panchayat, Musiri Taluk, Trichy District, at this stage, this Court, taking note of the fact that providing water supply is a basic requirement of the Town Panchayat and also in this regard the Petitioner's life and liberty is involved, without precipitating the matter any further and also not expressing any opinion in the pending S.A.No.1042 of 2003,

on the file of this Court, simpliciter, directs the First Respondent/Executive Officer, Thathaiyangarpettai Town Panchayat, Musiri Taluk, Trichy District, to carry-out the repair work and to restore the water supply connection to the Petitioner's house, bearing Door No.46, Harijan Street, Thathaiyangarpettai Town Panchayat, Musiri Taluk, Trichy District, within a period of ten days from the date of receipt of a copy of this order.

14. For providing restoration of water supply, if any amount is required to be paid to the First Respondent/Executive Officer, Thathaiyangarpettai Town Panchayat, Musiri Taluk, Trichy District, then, the Petitioner shall remit the same before the First Respondent. Also, if the First Respondent is in requirement of any copy of relevant record or copy of relevant document from the custody of the Petitioner, as the case may be, then, the Petitioner is directed to submit the same to the First Respondent without any hesitation or haziness and further directed to assist the First Respondent so as to enable him to do the needful in the subject matter in issue, within the time determined by this Court.

15. With the aforesaid observation(s) and direction(s), the Writ Petition stands disposed of. No costs.