

Court of Appeals
Fourth Court of Appeals District of Texas
San Antonio

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MEMORANDUM OPINION

No. 04-10-00692-CV

IN RE KILLAM RANCH PROPERTIES, LTD.

Original Mandamus Proceeding¹

PER CURIAM

Sitting: Karen Angelini, Justice
 Rebecca Simmons, Justice
 Steven C. Hilbig, Justice

Delivered and Filed: November 17, 2010

PETITION FOR WRIT OF MANDAMUS DENIED

On September 24, 2010, relator filed a petition for writ of mandamus, asserting: (1) the trial court lacked jurisdiction to cancel the lis pendens, and (2) the trial court erred in cancelling the lis pendens while an appeal is pending and without requiring security or an undertaking. This court ordered the respondent and/or real parties in interest to file a response to the petition, and responses were filed with this court on October 14, 2010.

Relator has also filed an appeal in Cause No. 04-10-00324-CV, which appeals the trial court's order granting summary judgment to Webb County and denying summary judgment to Killam Ranch, the award of attorney's fees, and the cancelling of the lis pendens. On October

¹This proceeding arises out of Cause No. 2007-CVQ-001680-D3, *Killam Ranch Properties, Ltd. v. Webb County, Texas*, in the 341st Judicial District Court, Webb County, Texas, the Honorable Michael Peden, visiting judge presiding.

21, 2010, relator filed a supplemental brief in Cause No. 04-10-00324-CV. As a result, the appeal now encompasses all of the issues addressed in the petition for writ of mandamus.

In order to be entitled to mandamus relief, a relator must show the trial court clearly abused its discretion and the relator has no adequate remedy at law. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135 (Tex. 2004); *Walker v. Packer*, 827 S.W.2d 833, 839-40 (Tex. 1992). The court has determined that relator has failed to establish it does not have an adequate remedy by appeal. Accordingly, the petition for writ of mandamus is DENIED. *See* TEX. R. APP. P. 52.8(a).

PER CURIAM