



W.P.(MD)No.1870 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.10.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.1870 of 2021 and
WMP(MD) No.1611 of 2021

Murugesan,

... Petitioner

Vs

1. The District Collector,
Trichy District, Trichy.

2. The Thasildar,
Musuri,
Trichy District.

3. The Block Development Officer,
Thathaiyangarpettai Block, Musuri Trichy.

4. The Village President,
Tumbalam Village, Musuri, Trichy.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, forbear the respondents from laying road in petitioners private land comprised in Survey Nos.191/3B2, 191/3B4 and 191/3B1 at Thumbalam Village in Trichy District by considering the petitioners representation dated 13.01.2021 within the



W.P.(MD)No.1870 of 2021

period that may be stipulated by this Court.

WEB COPY

For Petitioner :M/s.V.Vishnu

For Respondents :Mrs.D.Farjana Ghoushia for R1 & R2

Special Government Pleader

ORDER

This writ petition has been filed for the issue of a writ of mandamus forbearing the respondents from laying a road in the patta land belonging to the petitioner by considering the representation made by the petitioner on 13.01.2021.

2.When the matter was taken up for hearing, the learned Special Government Pleader produced a written instruction received from the 2nd respondent. On going through the same, it is seen that from the subject land in S.No.1913A1, 191/3B2 and 191/3B4, a portion is being used as a pathway for more than 30 years by the people living in that place. In view of the same, the 4th respondent has laid a road in the property.



W.P.(MD)No.1870 of 2021

WEB COPY

3. On going through the written instructions, it is seen that the property in question has not been categorized as nilaviyal pathai. It can only be ascertained that a portion of the property is being used by the villagers as a pathway. Therefore, if at all there is any right of easement, the same can only be claimed by the persons, who are using it as a pathway. That will not give right to the panchayat to lay a road in the property belonging to the petitioner in the absence of the same being categorized as a nilaviyal pathai.

4. In view of the above, it is made clear that the respondents will not interfere with the subject property belonging to the petitioner. If the villagers have been using the pathway situated in the subject property, it will always be left open for them to claim for easementary rights over the property and the dispute will confine itself between the petitioner and the villagers, who are using the pathway and it does not require the interference of the respondents.



W.P.(MD)No.1870 of 2021

WEB COPY

5. This writ petition is disposed of with the above terms. No costs. Consequently connected Miscellaneous Petition is closed.

11.10.2023

NCC :Yes/No

Index :Yes/No

RR

To

1. The District Collector,
Trichy District, Trichy.

2. The Thasildar,
Musuri,
Trichy District.

3. The Block Development Officer,
Thathaiyangarpettai Block, Musuri Trichy.



WEB COPY



W.P.(MD)No.1870 of 2021

N.ANAND VENKATESH, J.

RR

W.P.(MD)No.1870 of 2021

11.10.2023