



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.08.2015

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THE HONOURABLE MR.JUSTICE R.SUBBIAHW.P.(MD)No.13982 of 2015andM.P.(MD)No.1 of 2015

G. CHELLAMMAL

.. Petitioner

Vs.

1. THE DISTRICT COLLECTOR,
TIRUNELVELI DISTRICT, TIRUNELVELI.
 2. THE PROJECT OFFICER/
THE ASSISTANT DIRECTOR, DISTRICT RURAL
DEVELOPMENT AGENCY, TIRUNELVELI DISTRICT.
 3. THE COMMISSIONER,
KADAYAM PANCHAYAT UNION, KADAYAM,
TIRUNELVELI DISTRICT.
 4. THE PRESIDENT,
RAVANASAMUDRAM PANCHAYAT,
AMBASAMUDRAM TALUK,
TIRUNELVELI DISTRICT.
- .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a WRIT OF MANDAMUS forbearing the respondents from making any construction of any permanent building or permanent structures by minimising the width of the erstwhile street as in the records and keep this public street Ammankovil Street as such in survey No.632/1 and 632/2 in Ravanasamudram Panchayat in Ambasamudram Taluk in Tirunelveli District.

For Petitioner : Mr.F.X.Eugene
For Respondents : Mr.M.Rajarajan
Government Advocate

O R D E R

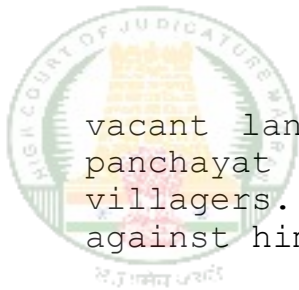
This writ petition has been filed for a writ of Mandamus forbearing the respondents from making any construction of any permanent building or permanent structures by minimising the width of the erstwhile street as in the records and keep the public street Ammankovil Street as such in survey No.632/1 and 632/2 in Ravanasamudram Panchayat in Ambasamudram Taluk in Tirunelveli District.



2.The case of the petitioner is that the petitioner is living along with her family in Ravanasamudram, Ambasamudram Taluk, Tirunelveli District. In the said village, the petitioner is owning a house with door No.2/217. The said house is situated in natham survey No.630/6. Nearer to this house, there are also other houses belonging to the petitioner's husband and son. All these houses aer having access from a public street, called Ammankovil Street, running north south, connecting with the East west street. This stree is running from south, towards north, in Survey No.632/1 and in the north side, it is widened and the widened portion is in survey No.632/2. In the eastern side of this survey no.632/2, the petitioner's houses are situated.

3.It is the further case of the petitioner that the fourth respondent is the President of the said panchayat. During the panchayat election, he could not get sufficient votes from the area, where the petitioner's houses are situated. Hence, with an intention to disturb their peaceful living, the fourth respondent is always giving troubles to the petitioner and her family members and also other people residing in that area, under the guise of improvement. It is also the case of the petitioner that the fourth respondent proposed to construct library building in front of the petitioner's house, blocking the free access from the petitioner's house to the street. Hence, the petitioner filed a suit in the Civil Court and the same is pending. Thereafter, the fourth respondent dropped the proposal to construct the library. Once again, he was proposing to utilize the funds for making constructions of Anganwadi and Nutritious meals center, in the particular street, where the petitioner is residing only with an intention to block the free movement of the vehicle in that street. But subsequently the said proposal was also dropped. Now he is proposing to construct a water tank in front of the petitioner's house in Survey Nos.632/1 and 632/2. If the proposed water tank is constructed in the street, it will obstruct the free flow of vehicles, to reach the petitioner's house. Therefore, the petitioner made a representation dated 20.07.2015. But the said representation has not been considered till date. Hence, the petitioner has come forward with the present writ petition.

4.The third respondent has filed counter affidavit stating that the FMB sketch of the village would reveal that the road is in existence to an extent of 0.05.75 aires in Natham Survey Nos.632/1 and 632/2 respectively and both were classified as Government Poramboke lands in the village records which the width of 20 feet only. The petitioner contrives to obtain natham house site pattas in her name, in the name of her husband and children at the time of natham settlement and without being satisfied, she is now making claim on the poramboke land. In fact, the petitioner's husband filed civil Suit in O.S.No.98 of 2012 before the learned Additional District Munsif Court, Ambasamudram for the similar relief, but no interim order was granted in the said suit. The said suit is still pending. Hence, the petitioner with an intention to keep her hold over the



vacant land is preventing the Executive authority of the village panchayat from discharging his public duty for the welfare of the villagers. The respondent has also denied the allegations made against him and thus, he sought for dismissal of this writ petition.

5. When the matter is taken up for hearing, the learned counsel for the petitioner submitted that only with personal animosity, the fourth respondent-the president of the village is purposely constructing a water tank in the street, where the petitioner is residing. If the fourth respondent is allowed to do so, it will obstruct the free flow of vehicles, to reach the petitioner's house. The learned counsel for the petitioner also relied upon a Judgment of the Hon'ble Supreme Court in AIR 1965 SC 1147 (MANGLAUR MUNICIPALITY v. MAHADEOJI) in support of his contention that the Municipality cannot put up structures which it intended to erect on the vacant site as it could not be said that they were necessary for the maintenance or user of the road as a public highway. For the similar proposition, he has also relied upon a Judgment of this Court reported in AIR 1984 MADRAS 292 (K.SUDARSAN v. COMMISSIONER, CORPORATION OF MADRAS).

6. Keeping the submissions made, I have perused the records carefully. The disputed question of fact cannot be decided in this writ petition, because this Court is not conducting any roving enquiry, as to whether the proposed construction would affect the free movement of the vehicle in the streets of the petitioner or would affect the right of the petitioner to use the street to reach her house. The issue involved in the present writ petition has to be decided only before the competent Civil Court by filing a proper legal proceedings. In fact, absolutely there cannot be any quarrel in the proposition laid down by Hon'ble Supreme Court. The principle laid down by the said Judgment can be applied only when the petitioner adduces the evidence both oral and documentary in a trial before the Civil Court, but not in this writ petition. Hence, the writ petition is liable to be dismissed. Accordingly, the same is dismissed. However, the petitioner is at liberty to work out his remedy before the Civil Court, if she so desires. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar(R)

/True Copy/

Sub-Assistant Registrar

To

1. THE DISTRICT COLLECTOR,
TIRUNELVELI DISTRICT, TIRUNELVELI.
2. THE PROJECT OFFICER/
THE ASSISTANT DIRECTOR, DISTRICT RURAL
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AMBASAMUDRAM TALUK,
TIRUNELVELI DISTRICT.

+One cc to The Special Government Pleader, SR.No.45974

+One cc to M/s.F.X.Eugene, Advocate, SR.no.45920

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RL/7c - 21/8/2015

W.P.(MD)No.13982 of 2015