



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2015

Coram

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P. (MD) No.492 of 2015

and

M.P. (MD) Nos.1 and 2 of 2015

S.Jegadambal

... Petitioner

vs.

- 1.The Chief Engineer,
Public Works Department, W.R.O.,
Trichy Division, Trichy - 20.
- 2.The Superintending Engineer,
Public Works Department, W.R.O.,
Nadu Cauvery Basin Division,
Trichy - 20.
- 3.The Executive Engineer,
Public Works Department, W.R.O.,
Nadu Cauvery Basin Division,
Trichy - 20.
- 4.Tamil Nadu Constructions (P) Ltd.,
Rep. By its Managing Director,
P.Prabakar
T-4, Rana Block
Dhathachariyar Garden,
Mambala Saalai,
Trichy - 620 005.

... Respondents

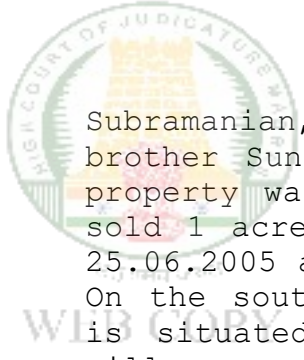
Prayer: Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Certiorari, to call for the records pertaining to the Impugned Letter in 560-SePo.Va8/Ko.1733/Anumathi/2014, dated 29.05.2014, passed by the 2nd respondent and quash the same.

For Petitioner	:Mr.R.Subramanian
For Respondents 1 to 3	:Mr.M.Murugan, Government Advocate
For Respondent 4	:Mr.A.L.Kannan

O R D E R

The Writ Petition has been filed, praying for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned Letter in 560-SePo.Va8/Ko.1733/Anumathi / 2014, dated 29.05.2014, passed by the 2nd respondent and quash the same.

<https://hcservices.courts.gov.in/hcservices/case> of the petitioner is that the property bearing T.S.Nos.2391, 2392 and 2393, belonged to his family and an extent of 1.95-1/2 acres in the above property was allotted to his father



Subramanian, in a family partition between his father Ongarasamy and his brother Sundaram. By a registered document, dated 29.09.1989, the above property was allotted to his brother K.S.Nithiyanandan and who in turn, sold 1 acre to the petitioner, by way of a registered sale deed, dated 25.06.2005 and the petitioner is in possession and enjoyment of the same. On the southern side of petitioner's property, Malataru (Naattu Vaikal) is situated and further south Kumbakonam Road is situated. Several villages are being irrigated by Malataru. To ingress and egress of the land, the petitioner and others are using the cart track, situated on the northern bank of Malataru, which is their only passage.

3. It is the further case of the petitioner that the 4th respondent purchased the property, situated on the western side of the petitioner's property, which belonged to Jambunathan. The employees of Tamil Nadu Construction (P) Ltd., started to enter into the norther and southern banks of 'Naattu Vaikal' abutting the land. The said Tamil Construction purchased the property bearing S.F.Nos.2392/2, 2392/4 and 2393/2 and they proposed to construct an apartment and based on the same, permission to construct the bridge was given. But, no notice was given to the neighbouring land owners, including the petitioner and objections were not called for. The 4th respondent marked the area for constructing the pillars on the northern and southern banks. As per the marking, the entire northern bank is completely blocked and the bridge ends in the property purchased by Tamil Nadu Construction (P) Ltd. Virtually the northern bank will be completely blocked and the neighbouring land owners cannot walk through the bank. In this regard, the first respondent, through his order dated 24.06.2013, directed the second respondent to make proper entries in the record and also directed him to take criminal action against one Palani, Chellammal and Selvaraj for their false representation and fabricating false document vide Document No. 1219 / 2000, by way of police complaint and against the said order, no Appeal was filed by any one. Hence, the order passed by the first respondent became final and conclusive. He further submitted that inspite of repeated reminders, the second respondent has not taken any action against them, on the basis of the order passed by the first respondent in Na.Ka. No. 1956 I All 2012 dated 24.06.2013. Hence, the petitioner has sent the representation to the second respondent on 20.07.2015, to take suitable action, on the basis of the order passed by the first respondent, dated 24.06.2013. Even after the receipt of the representation, the second respondent has not taken any action on the representation of the petitioner dated 20.07.2015. Hence, the present writ petition.

4. The 4th respondent has filed a detailed counter contending interalia that the writ petitioner has falsely represented that, as if there is no other pathway to approach her lands, except the Malataru (Naattu Vaikal), which is situated on the southern side of her property. In fact, there is a main pathway in the northern side of writ petitioner's lands, which is used by her from time immemorial, as per revenue records. The bridge put up by the 4th respondent is no way disturbing the water flow in the channel and the present writ petition is filed only on the instigation of one Manikandan, who is the adjacent land owner to this respondent. In fact, the lands in Survey.No.2392/2, 2393/2, and 2392/4 situated in Block 47, Srirangam Town Ward C, Kondaiyampettai Village, Srirangam Taluk, Trichy District has been re-



classified as Mixed Residential Area, as per letter given by Assistant Director, Local Planning Commissioner, Trichy, vide Na.Ka.No.270/2014, thi.u.thi.ku 2, dated 25.02.2014. The the 4th respondent does not have any exclusive right over the said bridge, except access to his lands and the said bridge had been constructed with the prior permission of PWD-WRO, by following rules and regulations. The right of the writ petitioner or water flow in the channel is no way affected by the construction of bridge and hence, prayed for dismissal of the writ petition.

5. The respondents 1 to 3 have filed a counter stating that based on the request from the 4th respondent, seeking to grant permission to construct an over bridge across Srirangam Nattu Vaikkal, by fulfilling all prescribed conditions. After scrutinizing all the documents, and after conducting spot inspection, PWD-WRO had granted permission to the 4th respondent to construct an over bridge. Now, the construction of bridge has been completed and the general public can use the bridge, as pathway, including the petitioner.

6. Heard the learned counsels appearing on either side and perused the materials available on record.

7. In view of the above said undertaking given by the respondents 1 to 3, I am of the opinion that there is no need to pass any specific order. Hence, recording the statement made by the respondents 1 to 3 in their counter statement that the petitioner can use the bridge constructed by the fourth respondent to reach her land, the Writ Petition is closed. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To

- 1.The Chief Engineer,
Public Works Department, W.R.O.,
Trichy Division, Trichy - 20.
- 2.The Superintending Engineer,
Public Works Department, W.R.O.,
Nadu Cauvery Basin Division, Trichy - 20.
- 3.The Executive Engineer,
Public Works Department, W.R.O.,
Nadu Cauvery Basin Division,
Trichy - 20.

+1 CC to Spl.Govt. Pleader SR 46863
+1 CC to Mr.A.L.Kannan, Advocate SR46666
+1 CC to Mr.R.Subramanian, Advocate SR 46810

SH:NGM-SS/SAR(PA) : 01.09.2015