

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.2038 of 2010

and

M.P.No.1 of 2010

T.Muthu

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Petitioner

Vs.

1.The District Collector,  
Namakkal District, Namakkal.

2.The Tahsildar,  
Sankari,  
Salem District.

3.The Commissioner,  
Mallasamudram Union,  
Tiruchengode Taluk,  
Namakkal District.

4.The President,  
E.Pudupalayam Village,  
E.Pudupalayam Panchayat,  
Sankari Taluk,  
Salem District.

5.M.Thaila Gounder

6.K.Kandasamy

7.K.Mathaiyan

8.K.Palaniammal

...

Respondents

(Respondents 5 to 7 impleaded as per  
Order dated 30.09.2013 of this Court  
in M.P.No.2/2010 in W.P.No.2038/2010)

**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents herein from laying the road situated in the patta land of the petitioner herein comprised in S.F.No.98/1D Pudupalayam

Village, Sankari Taluk, Salem District in compliance with Article 300A of the Constitution of India.

For Petitioner : Mr.V.Anandhamoorthy

For Respondents 1 to 3 : Mr.V.Jaya Prakash Narayanan,  
Special Government Pleader

For 4<sup>th</sup> respondent : Mr.M.Padmanaban

For respondents 5 to 8 : Mr.M.Marudhachalamoorthy

### O R D E R

Prayer in the Writ Petition is for a Mandamus forbearing the respondents herein from laying a road situated in the patta land of the petitioner herein comprised in S.F.No.98/1D Pudupalayam Village, Sankari Taluk, Salem District in compliance with Article 300A of the Constitution of India.

2. The grievance of the petitioner is that the land situated at S.F.No.98/1D Pudupalayam Village, Sankari Taluk, Salem District, belonged to 23 persons including the petitioner and it is a patta land. The third respondent Panchayat Union is taking steps to lay a road under some Government scheme by obtaining consent only from a few of the land owners and others have not been taken into confidence, and no consent have been given by the other land owners including the petitioner. Since the land belonged to the petitioner and others jointly, and it is a patta land, if at all, the third respondent wants to lay a road, they must either acquire the land or get permission from the land owners fully. Without resorting to any course of action permitted under law, the third respondent is attempting to lay a road aggressively without any legal sanction. Therefore, the petitioner has come up with the present Writ Petition.

3. Heard the learned counsel appearing for the respective parties.

4. The learned Special Government Pleader appearing for the respondents 1 to 3, while filing a counter affidavit of the third respondent, referred to Paragraph 4 of the said counter affidavit and stated that the proposal of laying road on the subject land has already been dropped. Paragraph 4 of the counter affidavit of the third respondent is reproduced hereunder:-

"4. Regarding Paragraph No.3 of the writ affidavit, it is respectfully submitted that the petitioner's property belongs to 23 persons. The said land is not subdivided according to revenue records. It is pertinent to note that the proposal to form a new road near the petitioner patta land comprised in S.No.98/1D1, I.Pudupalayam Village was withdrawn and no road was laid down by the respondents under the Bharath Nirman Scheme. Hence, all the allegations contained in this Paragraph of the writ affidavit is denied as false and motivated."

5. Since the very scheme of laying the road itself has been dropped by the third and fourth respondents, there can be no further grievance for the petitioner and other land owners of the subject land. By recording the said averments made in the counter affidavit filed by the third respondent, this Writ Petition is disposed of as no further order need be passed at this stage except recording the said submission of the third respondent. Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

asvm

Sd/-  
Assistant Registrar (CS- )

/TRUE COPY/

Sub-Assistant Registrar

Copy to:

1.The District Collector,  
Namakkal District, Namakkal.

2.The Tahsildar,  
Sankari,  
Salem District.

3.The Commissioner,  
Mallasamudram Union,  
Tiruchengode Taluk,  
Namakkal District.

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4.The President,  
E.Pudupalayam Village,  
E.Pudupalayam Panchayat,  
Sankari Taluk,  
Salem District.

+1 CC Mr.V.Anandhamoorthy Advocate SR.No.63741

+1 CC Mr.M.Marudhachalamoorthy Advocate SR.No.64159

W.P.No.2038 of 2010  
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SV [CO]

MSI 29/12/2016



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