

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2016

CORAM

THE HONOURABLE MR.JUSTICE NOOTY. RAMAMOHANA RAO
and
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.A.No.1572 of 2016
and C.M.P.No.19577 of 2016

T.Mohan ..Appellant/Petitioner
Vs.

- 1.The District Collector,
Cuddalore District,
Officer of the District
Collector Office,
Cuddalore District,
Cuddalore, Tamil Nadu.
- 2.The Block Development Officer,
Keerapalayam Panchayath Union,
Keerapalayam, Chidambaram.
- 3.The Thasildar,
Office of the Thasildar Office,
Chidambaram Taluk,
Chidambaram.
- 4.The Panchayath President,
Office of the Sakkangudi Village
Panchayath,
Sakkangudi Village,
Chidambaram Taluk,
Cuddalore District - 608 201. ..Respondents/Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 04.05.2016 made in W.P.No.11274 of 2016. Writ petition is filed under Article 226 of the constitution of India, to issue a writ of Mandamus Forbearing the respondents from erecting or put up any construction over the public road (Paattai) bearing S.No. 4/5 4/6 and public canal (odai) bearing S.No. 3/1 at Sakkangudi Village Chidambaram Taluk Cuddalore District and preserved the same as road (paattai) canal (odai) as earmarked in the revenue record

For Appellant : Mr.P.R.Thiruneelakandan
For Respondents 1to4 : Mr.A.P.Sivashanmugasundaram,
Special Government Pleader

J U D G M E N T

(Judgment of the Court was made by NOOTY.RAMAMOHANA RAO,J.)

This writ appeal is preferred under Clause-15 of the Letters Patent aggrieved by the judgment rendered by the learned Single Judge in W.P.No.11274 of 2016 dated 04.05.2016, dismissing the writ petition of the present appellant.

2.The writ petitioner sought for a writ of mandamus forbearing the respondents from putting up any construction over the property situated at Sakkangudi Village comprised in S.No.4/5, 4/6, which are classified as 'Paattai' and S.No.3/1, which is classified as 'Odai'.

3.The respondents to the writ petition are the District Collector of Cuddalore District, the Block Development Officer of Keerapalayam Panchayat Union, the Tahsildar of Chidambaram Taluk and the Panchayat President of Sakkangudi Village Panchayat respectively.

4.For effectively resolving the controversy that has cropped up in the writ petition, evidence is required to be collected to establish that a public pathway is passing through the land situated entirely in the Survey Numbers referred to by the petitioner and that there is no other land available in the said Survey Numbers and that without any authority of law a recognized pathway is sought to be converted for a different use and that in that process, the right of access of the writ petitioner/appellant to the National Highway gets curtailed.

5.Normally, collection of evidence, both documentary and oral, is seldom resorted to in exercise of the jurisdiction under Article 226 of the Constitution of India. Not that such an exercise is forbidden by law, but for reasons of expediency, such an exercise is seldom indulged in. If the competent Civil Court is approached, not only evidence can be collected effectively by the said court and in case of necessity, commissions can also be taken out for securing local inspection and for reporting the ground realities as existing. Therefore, we are of the opinion that the present writ petition, from which this appeal arises, is ill-suited for achieving the objective for which it is ostensibly instituted.

6.In the given facts and circumstances, we are of the opinion that the writ petitioner/appellant should be left liberty to approach the competent Civil Court and with this, the Writ Appeal stands dismissed at the admission stage. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Collector,
Cuddalore District,
Officer of the District Collector Office,
Cuddalore District,
Cuddalore, Tamil Nadu.
- 2.The Block Development Officer,
Keerapalayam Panchayath Union,
Keerapalayam, Chidambaram.
- 3.The Thasildar,
Office of the Thasildar Office,
Chidambaram Taluk, Chidambaram.

+1 cc to Mr.P.R. Thiruneelakandan, Advocate SR.73482

सत्यमेव जयते

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