



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 11.07.2016

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P(MD)No.7371 OF 2014 & M.P(MD)No.1 of 2014

K.Dhanam

..Petitioner

.vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Madurai East Taluk,
Madurai.

3.The Block Development Officer,
Madurai East Panchayat Union Office,
Chokkikulam,
Madurai.

4.The President,
Pudhupatti Panchayat,
Arumbanur Post,
Madurai District.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents not to prevent the petitioner from using the pathway situates in adjacent to the petitioner's house comprising in Survey No.121/9 and 119/7, Kottagaimedu Village in the fourth respondent panchayat and consequently direct the first respondent to take appropriate action against the fourth respondent based on the petitioner's representation dated 28.02.2014, within the time limit prescribed by this Court.

For Petitioner :Mr.R.Suriya Narayanan

For Respondents :Mr.S.Satheesh Kumar

Addl.Govt.Pleader for R1 & R2.

:Mr.D.Muruganandam

Addl.Govt.Pleader for R3 & R4.

ORDER

The petitioner has filed this Writ Petition for a Writ of Mandamus to direct the respondents not to prevent the petitioner from using the pathway situates in adjacent to the petitioner's house comprising in Survey No.121/9 and 119/7,



Kottagaimeedu Village in the fourth respondent panchayat and consequently direct the first respondent to take appropriate action against the fourth respondent based on the petitioner's representation dated 28.02.2014.

2. The petitioner submits that she is the owner of the land situated in Survey Nos.121/9 and 119/7 in Kottagaimeedu Village within the fourth respondent panchayat and that the revenue records pertaining to the said lands stand in her name.

3. It is the further case of the petitioner that in the adjacent land, a pathway of 10 feet is situated and that her family members and all other adjacent villagers are using the above said pathway for reaching their respective areas. According to the petitioner, the said pathway is a Government poramboke land and that it has been used as a pathway by her ancestors and other villagers as a common pathway for more than eighty years.

4. It is her specific case that the fourth respondent after taking charge as the President of Pudhupatti Panchayat, is insisting for changing the said land for some other purposes so as to prevent the same being enjoyed as a common pathway. The petitioner also alleges that the fourth respondent dug the hollow in the above pathway.

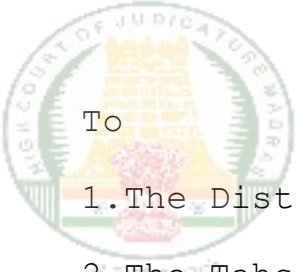
5. Heard the learned Counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

6. Having regard to the averments made in the affidavit filed in support of the writ petition, it can be seen that the petitioner is trying to establish her right of easement over the property of Government. The right of title and interest of any immovable property cannot be decided in the writ petition under Article 226 of the Constitution of India. The petitioner cannot get a decree for injunction in a writ proceeding. Hence, this writ petition is liable to be dismissed and accordingly dismissed with liberty to the petitioner to approach the civil Court for appropriate relief in the manner known to law. No costs. Consequently, the connected Miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar



To

- 1.The District Collector, Madurai District, Madurai.
- 2.The Tahsildar, Madurai East Taluk, Madurai.
- 3.The Block Development Officer,
Madurai East Panchayat Union Office,
Chokkikulam, Madurai.
- 4.The President,
Pudhupatti Panchayat, Arumbanur Post, Madurai District.

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SH/PEK:20.07.2016:3P/5C