



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 08.08.2016

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P(MD)No.14240 of 2016

and

W.M.P(MD)No.10554 of 2016

S.M.Jaya Prakash

..Petitioner

Vs

1.The District Forest Officer,
District Forest Office,
Dindigul.

2.The Conservator,
District Forest Office,
Dindigul.

3.The Forest Ranger,
Ottanchathiram Forest Range,
Ottanchathiram,
Dindigul District.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus forbearing the respondents from obstructing the pathway access which is common in nature, the way leading to the Petitioner's patta land in S.No.411/2 at Vadakadu Village, Dindigul District and further to direct the Respondents to permit the Petitioners to transport the vegetation from the patta land to the plains using the common pathway and for consequential orders.

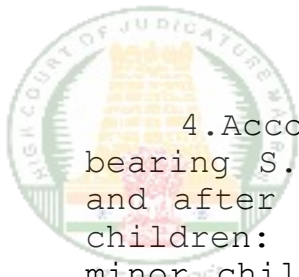
For Petitioner :M/s.K.R.Laxman

For Respondents :Mr.A.Muthukaruppan
Addl.Govt.Pleader

ORDER

Heard both sides.

2.By consent of both sides, the main Writ Petition itself is taken up for final disposal.



4. According to the Petitioner, he is the owner of the property bearing S.No.411/2 (which was originally owned by Perumal Mannadi) and after his demise, the said property devolved upon his wife and children: his wife Rahtinammal, for herself and on behalf of her minor children executed a sale deed in his favour vide sale deed, dated 4.5.2016, bearing Doc.No.1007 of 2016 (Sub-Registrar's Office, Ottanchathiram).

5. The stand of the Petitioner is that the land bearing S.No.411/2, at Vadakadu Village, Dindigul District, at the time of purchase was utilized by the Petitioner's earlier owners to the said property, exclusively for vegetation. The Hill Rangers in and around Ottanchathiram is producing the maximum quantity of vegetables, which is made available to several parts of the State and also to other States. Those lands are located in between forest area. Cultivation of vegetables finds a place in the forest area for more than 100 years and access to the patta lands are through reserve forest area wherein at several junctures, rights vested in those jungles are highly recognized. The vegetable production has a direct connectivity with the livelihood of human beings as the lands in between the said forest is ideal for cultivation of vegetables and as those lands were coupled with patta and there was no hindrance for egress and ingress to those patta lands.

6. In fact, these pathways were properly identified and recognized even in the proceedings of Board of Revenue (Land Revenue), Madras vide proceedings-Forest No.170, dated 19.8.1913..

7. The main plea taken on behalf of the Petitioner is that the pathway is the proper access to the cultivating lands in S.No.411/2, which is purely under cultivation. The act of the Respondent in obstructing the said pathway which recognized by the Board of Revenue (Land Revenue), Madras without notice to him is untenable, unconstitutional and improper. Further, the act of the Respondent has caused damage to production and also to the vegetables in total. Hence the Petitioner is forced to file the present Writ Petition before this Court, for the relief stated supra.

8. In this connection, the Learned Counsel for the Petitioner refers to the proceedings of the Board of Revenue (Land Revenue), dated 19.8.2013, wherein at Para 5, it is observed as follows:

'Para No.5: The Special Deputy Collector proposes to admit an enclosures within the reserve, nine fields held on Patta even (prior to Revenue Settlement and exhibited as enclosures in the topographical map of 1891 though they were not notified as Patta holdings during Forest Settlement, and to allow two additional rights of way to provide access to them. The Survey Numbers and the rights of way are specified in the schedule annexed to these proceedings. The Board accepts the Deputy Collector's proposal and requests that the Government



will be pleased to admit these rights within the reserve.''

9. Apart from that, the Learned Counsel for the Petitioner seeks in aid of the order passed by this Court in W.P.(MD)No.14313 of 2012, dated 18.12.2012, whereby and wherein, it is observed as follows:

(I) The Petitioner is directed to send a representation to the District Collector concerned with a request to him to give a Certificate that except the pathway which is being used by him there is no other pathway available to him to reach his patta property. The said representation shall be sent by the Petitioner within four weeks from the date of receipt of a copy of this order.

(ii) On receipt of the same, the District Collector concerned shall, after verification, grant a certificate to the effect that except the pathway which is being used by him, there is no other pathway available to him to reach his patta property.

(iii) If for some reasons, if the District Collector finds that there is in existence, another pathway for the Petitioner to reach their property, he is also directed to provide such certificate.

(iv) On receipt of the Certificate from the District Collector concerned showing that there is no other pathway for the Petitioner to reach their patta property, the same shall be sent by the Petitioner along with other documents to the District Forest Officer, within two weeks from the date of receipt of a report from the District Collector concerned.

(v) On receipt of the said proposal from the Petitioner along with certificates and other documents, the District Forest Officer is directed to send the same to the Principal Chief Conservator of Forests within two weeks thereafter.

(vi) The said officer is directed to send the same to the Secretary to Government, Forest Department within two weeks thereafter. He, in turn, is directed to send all the papers to the Central Government for approval. It is open to the Secretary, Ministry of Environment to pass orders expeditiously as possible.

(vii) Till the orders are passed by the Secretary, Ministry of Environment, the Petitioner shall not be prevented by the officials of the Forest Department for using the pathway for access to their patta land, in the same manner in which he has been using the same as of now.

(viii) If the Petitioner fails to obtain a Certificate from the District Collector concerned showing that there is no other pathway, it is open to the respondents to take appropriate action against the Petitioner.''



10. In response Mr. A. Muthukaruppan, Learned Additional Government Pleader for Respondents No.1 to 3 brings it to the notice of this Court fairly that the direction issued by this Court in W.P (MD) No.14313 of 2012, dated 18.12.2012 are quite applicable to the land bearing S.No.411/2 of Vadakadu Village, . Furthermore, it is represented on behalf of the Respondents that so far the Petitioner has not submitted any application/petition to the concerned authority to utilize the admitted pathway in question.

11. Considering the fact that the Petitioner has not approached the concerned authority to utilize the pathway in question, at this stage, this Court by following the order in W.P (MD) No.14313 of 2012, dated 18.12.2012 this Court issues the following directions:

(I) The Petitioner is directed to send a representation to the District Collector concerned with a request to him to give a Certificate that except the pathway which is being used by him there is no other pathway available to him to reach his patta property. The said representation shall be sent by the Petitioner within four weeks from the date of receipt of a copy of this order.

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(vii) Till the orders are passed by the Secretary, Ministry of Environment, the Petitioner shall not be prevented by the officials of the Forest Department for



using the pathway for access to their patta land, in the same manner in which he has been using the same as of now.

(viii) If the Petitioner fails to obtain a Certificate from the District Collector concerned showing that there is no other pathway, it is open to the respondents to take appropriate action against the Petition. ''

12. With the aforesaid direction(s) and observation(s), the Writ Petition stands disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (Writ)

/True Copy/

Sub Assistant Registrar

vsn

To

1. The District Forest Officer,
District Forest Office,
Dindigul.
2. The Conservator,
District Forest Office,
Dindigul.
3. The Forest Ranger,
Ottanchathiram Forest Range,
Ottanchathiram,
Dindigul District.

+1 cc to Mr. K.R. LAXMAN, Advocate, Sr.No: 42729

+1cc to M/S Special Government Pleader, Sr No. 42904

jam/16.08.16/KBM/5P-6C

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