

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.22423 of 2014
and
M.P.Nos.1 and 2 of 2014

Mr.M.Radhakrishnan

.. Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary,
Municipal Administration and Water Supply Dept.,
Secretariat, Fort St.George,
Chennai-600 009.
2. The District Collector,
Office of the District Collector,
Kancheepuram Town and District.
3. The Commissioner,
Maraimalai Nagar Municipality,
Maraimalai Nagar,
Kancheepuram District.
4. Mr.Nataraja Naidu

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to forbear the third respondent to form any new Road in a Patta land bearing S.No.20 situated at Konathi Village, Chengalpattu Taluk, Kancheepuram District, without following due process of law.

For Petitioner : Mr.P.Thiagarajan

For Respondents : Mr.R.Venkatesh, Govt.
Advocate for RR-1 and 2
Mr.P.Srinivas for R-3
No appearance for R-4

ORDER

The petitioner has come forward with this Writ Petition praying for issuance of a Writ of Mandamus to forbear the third respondent to form any new Road in a Patta land bearing S.No.20 situates at Konathi Village, Chengalpattu Taluk, Kancheepuram District, without following due process of law.

2. From the counter affidavit filed by the third respondent, it is clear that the land belongs to eight persons and they are having joint pattas. It is further stated in the counter that the land had not been properly handed over to the respondent-local body. However, the road is existing there for more than 30 years and that some of the residents are interested in having the road in that place. It is also stated that there are street lights and also two public drinking water taps.

3. The above averments of the third respondent, have been denied by the petitioner stating that it is not correct that the water taps and street lights are on the private place and even assuming that the land belongs to the petitioner and it is private patta land, unless and otherwise it is acquired in accordance with law, the private land cannot be converted into one of public pathway.

4. Heard both sides and perused the materials available on record.

5. If the private place is to be converted into a road at the instance of some of the residents, it is open for the Government to take steps to acquire the land in question by paying necessary compensation, after hearing the parties concerned. When it is an admitted case that the land belongs to the petitioner, merely because the pipe lines are said to have been laid and street lights are there, it cannot be a ground to accept the contentions of the third respondent in the counter affidavit. It is open for the respondents 1 to 3 to establish that they have been using the place in question for more than three decades and ultimately, the issue has got to be resolved only before the Civil Court. I find much force in the contentions of the petitioner. The Writ Petition is allowed. This order will not preclude the respondents 1 to 3 from acquiring the land in question in accordance with law for the purpose of using it as a public road or for any other public purpose. If any party approaches the Civil Court, the petitioner in this Writ Petition and also the fourth respondent, shall be

heard before a decision is taken. No costs. Consequently, the Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

CS

To

1. The State of Tamil Nadu,
rep. by its Secretary,
Municipal Administration and Water Supply Dept.,
Secretariat, Fort St.George,
Chennai-600 009.
2. The District Collector,
Office of the District Collector,
Kancheepuram Town and District.
3. The Commissioner,
Maraimalai Nagar Municipality,
Maraimalai Nagar,
Kancheepuram District.

+1cc to Mr.P.Srinivas, Advocate, S.R.No.89875
+1cc to the Government Pleader, S.R.No.90199

W.P.No.22423 of 2014

LRS(CO)
CS/18/01/18

सत्यमेव जयते

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