

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:31.07.2017

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH

W.P.No.3864 of 2010

and

M.P.No.1 of 2010

M/s.Sri Sabarinathan Blue Metal rep.
by its Proprietor K.Selvam .. Petitioner

Vs

1. The State of Tamil Nadu rep. by its
Secretary,
Environment and Forests
Department, Fort St. George,
Chennai - 9.
2. The District Forest Officer,
Chengalpattu Division,
Kancheepuram District.
3. The Forest Range Officer,
Tambaram Range, Tambaram,
Chennai - 45. ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of prohibition prohibiting the respondents from in any manner preventing free vehicular movement and access of the petitioner to his land in S.No.216, Erumaiyur Village, Sriperumpudur Taluk, Kancheepuram District admeasuring 1.25 acres.

For Petitioner .. Mr.J.Venugopal

For Respondents .. No appearance

ORDER

This writ petition has been filed for the issuance of a writ of prohibition, prohibiting the respondents from in any manner preventing free vehicular movement and access of the petitioner to his land in S.No.216, Erumaiyur Village,

Sriperumpudur Taluk, Kancheepuram District admeasuring 1.25 acres.

2.The petitioner claims right through a forest land. In the counter affidavit filed, it has been stated that there are two pathways available as per the Notification of the Erumaiyur Reserve Forest. Now, what the petitioner seeks is a right of way in the new road. According to the petitioner, such a right is available, which factum is denied by the respondents.

3.As per the Notification, the way, as claimed by the petitioner, is not available, though two ways have been granted. Therefore, the petitioner does not have a vested right to claim the use of a particular land as a road. Creation of a road through a forest is the most destructive method to destroy it. The only way a forest can be maintained is to keep it as such. The moment way is created, it becomes a property used by the humans through traffic.

4.Reliance made by the learned counsel appearing for the petitioner on the judgment of the Division Bench in W.A.Nos.1375 of 2012 etc., batch dated 15.10.2012 does not help the case of the petitioner since no positive direction has been granted therein. In fact, in the present case, two ways have already been provided through Notification. The facts involved therein are different. There was no denial in the said case about the existence of a road being used for more than 60 years.

5.In view of the above, this Court does not find any legal right vested with the petitioner to seek usage of the forest property as a road. Hence the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

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To

1. The Secretary, State of Tamil Nadu
Environment and Forests
Department, Fort St. George,
Chennai - 9.

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2. The District Forest Officer,
Chengalpattu Division,
Kancheepuram District.

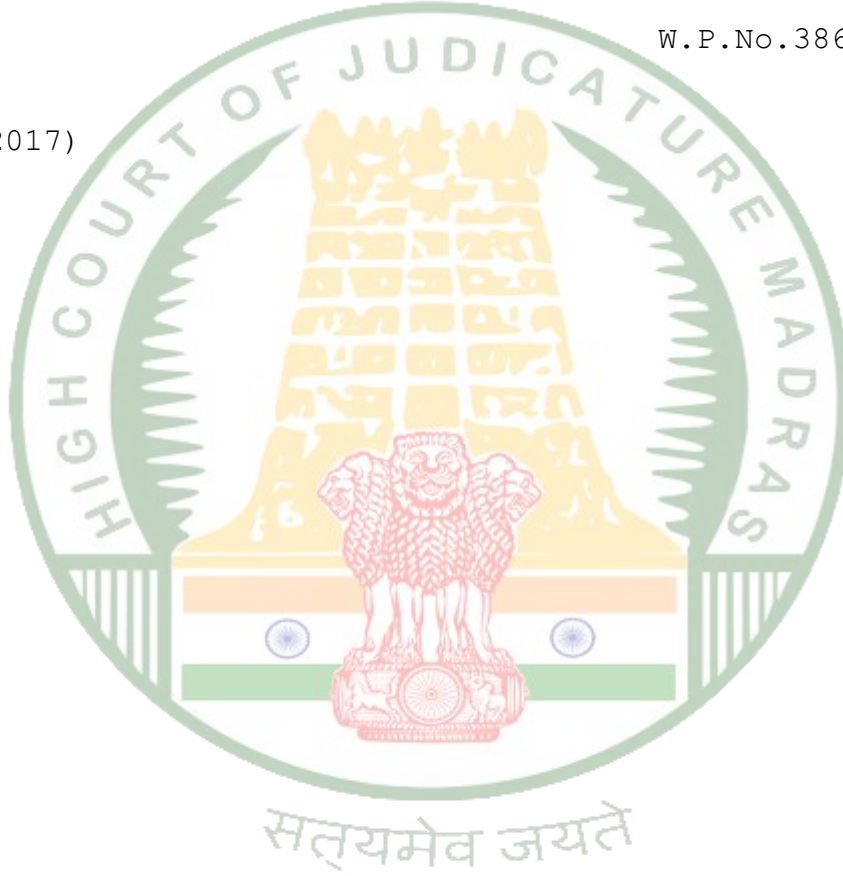
3. The Forest Range Officer,
Tambaram Range, Tambaram,
Chennai - 45.

+1 CC to Mr.J. Venugopal Advocate sr 55164

+1 CC to Govt. Pleader sr 54077.

W.P.No.3864 of 2010

MSM(CO)
sp(29/08/2017)



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