



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.11.2017

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**

W.P.(MD)No.21142 of 2017

and

W.M.P(MD)No.17407 of 2017

P.Kalyani : Petitioner

.vs.

1.The Director,
Survey and Settlement Records,
Chepauk, Chennai.

2.The District Collector,
Pudukkottai District,
Pudukkottai.

3.The Tahsildar,
Viralimalai Taluk,
Pudukkottai District.

4.The Block Development Officer,
Viralimalai Union,
Pudukkottai District.

5.Venkatesan

6.Rasappan : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Mandamus directing the respondents 2 to 6 not to lay the road in S.F.No.223/10,situated at Keelapatti, Kodumpalur Village, Viralimalai Taluk, Pudukkottai District.

For Petitioner : Mr.S.C.Herold Singh
for M/s.A.Vadivel

For Respondents : Mr.T.R.Janarthanan
1 to 3 Additional Govt.Pleader



For Respondents
5 and 6

: Notice Dispensed with
(Vide order of this Court
dated 16.11.2017)

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O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

This Writ Petition has been filed seeking issuance of a Writ of Mandamus directing the respondents 2 to 6 not to lay the road in S.F.No.223/10, situated at Keelapatti, Kodumpalur Village, Viralimalai Taluk, Pudukkottai District.

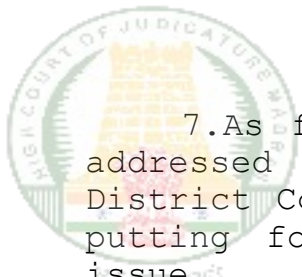
2. Heard the Learned Counsel for the Petitioner and the Learned Additional Government Pleader appearing for the Respondents 1 to 3. To avoid an avoidable delay, notice to R5 and R6 is dispensed with, to prevent aberration of justice.

3. According to the Petitioner, the Revenue Inspector, Kodumpalur had issued a show-cause notice, dated 17.08.2017 to her husband and Petitioner's mother-in-law under Section 7 of the Tamil Nadu Land Encroachment Act, 1905. In the said notice, a reply was directed to be given on or before 1.8.2017.

4. It comes to be known that on 28.08.2017, the wife of Ponnusamy, the Petitioner herein, had given a reply to the Second Respondent (Since the Petitioner's husband is abroad) and in the said reply, the Respondents were requested to grant her time to produce the documents. However, the time prayed for by the Petitioner was not acceded to by the concerned.

5. The categorical case of the Petitioner is that as per the Field Measurement Book in respect of S.No.223/12C, on the western side of the road, it was mentioned as 155 metres. As a matter of fact, the Zonal Deputy Tahsildar of Viralimalai had issued a patta and sketch, dated 14.7.1997. However, the Revenue Officials without issuing notice to the concerned land owners of the Petitioner's husband, had trespassed into the property for the purpose of laying road. It appears that the Third Respondent had altered and reduced the length of Petitioner's land in S.F.No.223/12C namely, reduced to 146.0 meters from 155 meters and it is converted and classified as 'Cart Track' in S.No.223/10. Now in the FMB, it is mentioned as Cart Track in S.No.223 and the same is not acceptable, in any manner.

6. Conversely, it is the submission of the Learned Counsel for the Petitioner that the road is laid as per the revenue records, wherein subject land is mentioned as 'Cart Track'.



7.As far as the present case is concerned, the Petitioner had addressed a reply/communication to the Second Respondent/The District Collector, Pudukkottai District, raising her objections or putting forward her version in regard to the subject-matter in issue.

8.Mere perusal of the contents of the letter, among other things indicates that the Petitioner had specifically mentioned that her husband is in abroad and after her husband's return, the land can be measured. Also, she had annexed necessary documents connected with the Cart Track in question.

9.Considering the fact that the Petitioner had furnished a reply, dated 28.08.2017 for the show-cause notice, dated 17.8.2017 and the said reply is pending consideration in the hands of the Second Respondent, this Court, at this stage, in the interest of justice, fair play, equity, good conscience and even as a matter of prudence, directs the Second Respondent to look into the reply/representation/objection of the Petitioner and to take a final call by passing necessary orders within a period of three weeks from the date of receipt of a copy of this order. It is open to the Second Respondent/The District Collector, Pudukkottai District, Pudukkottai to provide an opportunity of personal hearing to the Petitioner, if he so desires/advised and the Second Respondent shall take into account the over-all assessment of the facts and circumstances of the present case in a cumulative manner and come to a resultant conclusion, in any event, within a period of four weeks thereafter. Liberty is granted to the Petitioner to raise all factual and legal pleas before the Second Respondent, who shall take note of the same at the time of passing of final orders, is to meet out all the points so raised, in a qualitative and quantitative manner.

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

Sd/-

Assistant Registrar(CSIII)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Director, Survey and Settlement Records,Chepauk, Chennai.
- 2.The District Collector, Pudukkottai District, Pudukkottai.
- 3.The Tahsildar, Viralimalai Taluk, Pudukkottai District.
- 4.The Block Development Officer,
Viralimalai Union, Pudukkottai District.

+One cc to Mr.A.Vadivel, Advocate, SR.No.87573

+One cc to The Special Government Pleader, SR.No.87943

vsn

RL/7C/3P/SKN/RSK/SAR1/12/12/2017

ORDER MADE IN

W.P. (MD) No.21142 of 2017

and

W.M.P (MD) No.17407 of 2017

16.11.2017