



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

WEB COPY

W.P(MD)No.20705 of 2016andW.M.P(MD)No.14797 of 2016

K.Abuthahir

.. Petitioner

Vs.

- 1.The District Collector,
Dindigul.
- 2.The District Forest Officer,
The District Forest Office,
Dindigul District.
- 3.The Conservator,
The District Forest Office,
Dindigul.
- 4.The Ranger,
Kodaikanal Forest Range,
Kodaikanal,
Dindigul District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the first respondent to consider the representation pertaining to issuance of a Certificate for the pathway available to access the S.No.324 at Poombarai Village, Kodaikanal Taluk, Dindigul District and further direct the respondents not to obstruct the Common Pathway Access, leading to the abovesaid petitioner's patta land by granting permission to transport the vegetation from patta land using the available common pathway.

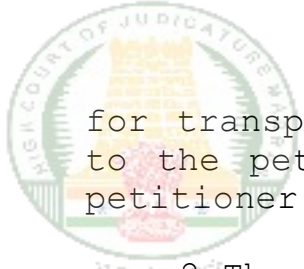
For Petitioner : Mr.K.R.Laxman

For Respondents : Mr.C.Selvaraj

Special Government Pleader

ORDER

The petitioner claims to be owner of private patta land situated at S.No.324 at Poombarai Village, Kodaikanal Taluk, Dindigul District. It is further stated by the petitioner that the entire property under S.No.324 are subjected to Horticultural services and there is a pathway, which crosses the reserved forests for 50 feet, called Horse pathway used by the petitioner



for transporting the agricultural products. Now the said access to the petitioner is denied by the respondents stating that the petitioner is crossing the reserved forest.

2. The second respondent filed a counter affidavit disputing the claim made by the petitioner. It is the specific contention that the petitioner is making repeated attempts to destroy the natural wealth by way of making pucca road for transportation of his own products. It is also stated in the counter affidavit that the petitioner is already having approach road from his land to main road.

3. The learned counsel appearing for the petitioner submitted that though the prayer sought for in this writ petition is for directing the first respondent to consider the representation of the petitioner for issuing a certificate for pathway available and also directing the respondents not to obstruct the common pathway access, it would suffice if the first respondent is directed to consider the petitioner's representation for issuance of a certificate for pathway in the light of several orders passed by this Court on similarly situated cases. He invited this Court's attention to the Division Bench decision of this Court reported in (2012)8 MLJ 1 (State of Tamil Nadu vs. K.K.M. Road Construction), wherein certain directions, issued to the District Collector by the learned single Judge therein, were confirmed with certain modifications. In a recent decision made in W.P(MD)No.14240 of 2016 dated 08.08.2016, the same directions are directed to be followed. The directions issued in similarly situated cases are 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 available to 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.''

Therefore, this Court is of the view that the first respondent can consider the application/representation of the petitioner and pass orders by following the directions already issued in similarly situated matters as stated supra. Such exercise shall be done by the first respondent within a period of eight weeks from the date of receipt of a copy of this order.

4. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

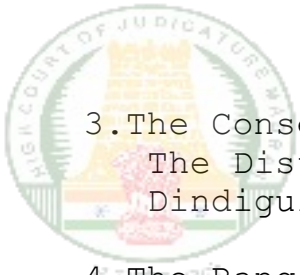
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Sub Assistant Registrar

To

1. The District Collector,
Dindigul.

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



3.The Conservator,
The District Forest Office,
Dindigul.

4.The Ranger,
Kodaikanal Forest Range,
Kodaikanal,
Dindigul District.

+1 cc to MR.K.R.Laxman, ADVOCATE, SR NO:4472
+1 CC to M/S.SPL.GOV.T.PLEADER, SR NO: 4499

skn
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and
W.M.P (MD) No.14797 of 2016
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