



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.01.2017

WEB COPY

CORAM:
THE HONOURABLE **MR. JUSTICE M.S.RAMESH**
W.P. (MD) No.20278 of 2013

S.P.Raja

.. Petitioner

Vs.

1.The District Collector,
Theni, Theni District.

2.The Principal Chief Conservator of Forests,
No.1, Jeenis Road, Panagal Building,
Saidapet, Chennai - 15.

3.The Conservator of Forests,
Race Course Salai, Madurai - 2.

4.The District Forest officer,
Madurai Forest Division,
Race Course Salai, Madurai - 2.

5.The District Forest Officer,
Theni Forest Division,
K.R.R.Nagar, Theni.

6.The Forest Ranger,
Megamalai, Kadamalaigundu,
Theni District.

7.The Tahsildhar,
Aundipatti Taluk,
Theni District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to take suitable action on the basis of the petitioners representation, dated 18.11.2013 with regard to the respondents to permit the petitioner to use the pathway which runs from Theppampatti up to the property in Survey Numbers 1314 Patta No.355 at Kadamalaikundu Village, Aundipatti Taluk and Theni District through Dharmasathram.

For Petitioner : Mr.D.Anbarasu
For Respondents : Mr.T.R.Janarthanam
Additional Government Pleader

ORDER

The petitioner claims to be the owner of the properties comprised in Survey No.1314 at Kadamalaikundu Village, Aundipatti Taluk, Theni District.



2.The seventh respondent had also issued a patta to the aforesaid land in favour of the petitioner. According to the petitioner, his property is situated at middle of the forest lands and that the only available pathway is through the lands belonging to the forest department.

3.The learned counsel for the petitioner submits that his vendors are all along using this pathway belonging to the forest department and he had purchased the said lands on the hope that no hindrance will be caused by the forest officials for using the path way. However, when there was objections from the forest officials, he had made representation to the fourth respondent, based on which, by a letter dated 01.04.2003, the District Forest Officer of Madurai Division, had recommended to the Conservator of Forests to allow the petitioner to use one meter wide path for walking. Based on the recommendation, the petitioner has also given another representation, dated 18.11.2013 to all the respondents. Since no reply was received from the respondents, the present writ petition has been filed.

4.Mr.T.R.Janarthanam, learned Additional Government Pleader submitted that the petitioner cannot claim a right of way to his property, since through a Tamil Nadu Government Gazette, dated 06.04.1998, the Gandamanaickanur East Forest Block comprising S.No.1315 etc. of Kadamalaigundu village measuring an extent of 10,774.31 hectares has been declared as reserved forest under Section 16 of the Tamil Nadu Forest Act, 1882, with effect from 06.10.1988 and that there are only two right of ways, which passes through the forest in Survey Nos.229 and 778 and there is no right of way for the petitioner, who is the owner of Survey No.1315.

5.If at all the respondents feel that the petitioner has no right of way, it was also open to them to reply to the petitioner's representation setting forth all these facts, instead of keeping the representation pending. The fact remains that the petitioner's case was favourably recommended for permission to use one meter wide path way for walking by the District Forest Officer, which has not been taken up for consideration. In this background, it would be appropriate to direct the respondents to consider the petitioner's case, in the light of the recommendation made by the District Forest Officer, Madurai Division.

6.Hence, the petitioner is granted liberty to make a fresh representation to the third respondent seeking for right of pathway and on receipt of the same, the third respondent shall consider it, in the light of the recommendation made by the District Forest Officer vide his letter, dated 01.04.2003 and pass orders in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.



7. With the above observations, the writ petition is disposed of. No costs.

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ASST REGISTRAR (AE)

SUB ASST REGISTRAR

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To

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Theni District.
7. The Tahsildhar,
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Theni District.

3CC TO MR. D. ANBARASU, ADVOCATE SR: 4592

1CC TO THE SPL GOVT PLEADER SR: 4740

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