

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P.No.840 of 2018

- 1.R.Senthil
S/o.Radhakrishnan
- 2.S.Renganathan
S/o.Sadasivam Vellar
- 3.G.Veerassamy
S/o.Govindasamy Vellar
- 4.V.Sivasankaran
S/o.Veerassamy Vellar
- 5.N.Karunakaran
S/o.A.Nadarajan Vellar
- 6.R.Ramesh Kumar
S/o.A.Radhakrishnan Vellar
- 7.A.Ramu
S/o.Arunachalam Vellar
- 8.G.Thiyagarajan
S/o.Govindaraju Vellar
- 9.G.Ganesan
S/o.Govindaraju Vellar
- 10.G.Vijay
S/o.G.Ganesan Vellar

- 1.The District Collector,
Thiruvarur District,
Thiruvarur.

.. Petitioners

Vs

2.The Special Officer/Block Development Officer,
Erukkatur Panchayat Union,
Koradachery,
Thiruvarur District,
Thiruvarur.

3.The Superintendent of Police,
Perunthittam Complex,
Thiruvarur District - 610 004.

4.The Inspector of Police,
Koradachery Police Station,
Thiruvarur District,
Thiruvarur.

5.The Tahsildar,
Koothanallur Taluk,
Koothanallur,
Thiruvarur District.

6.R.Shanmugham,
Administrator,
Kali Amman Kovil Mela Erukkatur,
Erukkatur Post, Kamalapuram Via,
Koothanallur TK.,
Thiruvarur District.

[R6 impleaded as per order dated 08.02.2018
in W.M.P.No.3324/18 in W.P.No.840.18] ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing respondents 1 to 5 to remove the low roof shed and the platform like structure constructed abutting the road in front of the temple situated in Kali Amman Kovil Street at Mela Erukkatur, Erukkatur, (PO) Kamalapuram via, Koothanallur (Tr), Thiruvarur District and to restore the said road to its original position and by which enabling the petitioners to use the road for transporting their products as it is.

For Petitioners: Mr.V.S.Jagadeesan

For Respondents: Mr.A.N.Thambidurai,
Special Government Pleader
[R1 to R5]

O R D E R

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

By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader, appears for respondents 1 to 5.

2. First petitioner claims to be a resident of S-1 Thenral Villa, Venkateshwara Nagar, Ramapuram, Chennai - 600 089. Petitioners 2 to 10 claim to be residents of Kali Amman Kovil Street, Mela Erukkatur, Erukkatur (PO), Kamlapuram via, Koothanallur (Tr), Thiruvarur District. According to them, in the said place, house sites have been allotted to them and they have ingress and egress to their property through the Government poramboke land in Survey No.18/10 and through the road, they used bullock carts and also other transport facilities. The grievance of the petitioners is that the construction of low roof sheet and platform like structure in the said road completely blocked their access and the alternative way provided by the Government is too narrow and it is extremely difficult to take even small vehicles. It is submitted that series of representations to the concerned respondents have been given. Despite receipt and acknowledgment, no action has been taken.

3. The Writ Petition was entertained on 12.01.2018 and vide order dated 08.02.2018, respondents 1 to 5 were directed to survey the area in question in the presence of temple authorities as well as the writ petitioners and to submit a report.

4. The Tahsildar, Koothanallur, has filed counter affidavit and took a stand that the land in R.S.No.18/10 admeasuring an extent of 0.03.0 ares is classified as 'Government Poramboke Arulmigu Kaliammankovil' and the pathway right claimed by the petitioners is measuring width of 5.4 mtrs. and it crossed the temple poramboke land and with a view to extend the temple premises in RS.No.18/10, the Village Panchayat has also formed one cement road on the northern boundary, which turns the road from west to east and it has also been used by the public and as such, extension of temple premises by putting tin sheet roof with cement platform in RS.No.18/10 has no way affected the public. It is also relevant to extract paragraph No.8 of the counter affidavit:

'8. Regarding the averments in para 5 of the affidavit of the petitioner, it is submitted that the devotees have extended the temple premises in front side by erecting tin roof sheet and also cement platform in the interest of devotees. It is however submitted that there is hindrance to the public to use

the old road by crossing the cement platform from south to north. But vehicles could not cross the temple premises. With a view to provide between way to the petitioners who are residing on the western side of RS.No.18/11 and RS.No.24/3A etc. the Village Panchayat have laid a cement road leading from the southern boundary of RS.No.18/11 west to east, then eastern boundary of the same RS.No.18/11 from south to north and then turned to the west on the same field from east to west so to reach the old road in the northern side. Thus there is sufficient transport facilities provided to the petitioners and other villages in one and same survey field. Hence this contention of the petition has no merit.'

5. Learned counsel for the petitioners would submit that admittedly the land in question is a poramboke land and hence, called as 'temple poramboke land' and as such, the residents should have a right to use the said pathway and the alternative way provided by the Government is too narrow and it is extremely difficult to take even small vehicles to negotiate the bend and curves and since the classification of land as 'Government Poramboke Arulmigu Kaliammankovil' has been done behind their back, prays for working out their remedy in accordance with law.

6. Per contra, learned Special Government Pleader appearing for official respondents, by drawing the attention of this Court to the counter of fifth respondent, would submit that since alternative pathway has been provided, the writ petition is not maintainable and prays for dismissal.

7. This Court has considered the rival submissions as also perused the materials placed before it.

8. The stand taken by the fifth respondent in the counter affidavit is that there is an alternative pathway in the form of a cement road and according to learned counsel for petitioners, it is too narrow and as such petitioners and other persons are finding extremely difficult to take their vehicles and further the classification of land as 'Government Poramboke Arulmigu Kaliammankovil' has been done behind their back.

9. In the light of the materials placed, this Court is of the view that the prayer sought for by the petitioners cannot be granted. If the petitioners are so advised and remedy available under law, it is open to them to work out their remedy in accordance with law as per old classification of the land as 'Temple Poramboke Land' and also for expansion of the cement road formed in RS.No.18/11.

The Writ Petition is disposed of with the above observation.
No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gm

To

- 1.The District Collector,
Thiruvarur District,
Thiruvarur.
- 2.The Special Officer/Block Development Officer,
Erukkatur Panchayat Union,
Koradachery,
Thiruvarur District,
Thiruvarur.
- 3.The Superintendent of Police,
Perunthittam Complex,
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- 4.The Inspector of Police,
Koradachery Police Station,
Thiruvarur District, Thiruvarur.
- 5.The Tahsildar,
Koothanallur Taluk,
Koothanallur,
Thiruvarur District.

+1 cc to M/s.V.S.Jagadeesan Advocate sr 30153

+1 cc to the Govt pleader sr 30351

W.P.No.840 of 2018

aa07/06/2018