



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 21.06.2018

CORAM

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
and
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A(MD).No.619 of 2013

and

M.P(MD).No.1 of 2013

S.Ravi

.. Appellant/Petitioner

Vs.

1.The Government of Tamil Nadu,
Secretary to Government,
Department of Agricultural
Marketing and Agri Business,
St.George Fort, Chennai-9.

2.The District Collector,
District Collectorate Building,
Tirunelveli, Tirunelveli District.

.. Respondents

Prayer: Appeal filed under Clause 15 of Letters Patent Act, to set aside the order dated 01.03.2011 passed in W.P(MD).No.1264 of 2010 on the file of this Court.

Prayer in WP(MD). 1264/ 2010 :

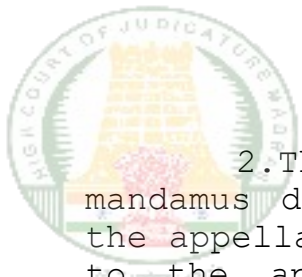
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF MANDAMUS directing the respondents to remove the wall surrounding the petitioners Patta Land in the cart road blocking the free access to the petitioners Land in an extent of 30 cents in Survey Nos.1976/1A and in extent of 34 1/2 cents situated at Survey No. 1949 at Kavalkinaru Villakku Perungudi village, Valliyoor Panchayat Union, Tirunelveli District within the time stipulated by this Honourable Court.

For Appellant : Mr.C.Dhanaseelan

For Respondents : Mr.C.M.Marichellaiah Prabu
Additional Government Pleader.

JUDGMENT

Feeling aggrieved against the dismissal of the writ petition by the Writ Court, the present appeal is filed by the writ petitioner.



2.The appellant approached the Writ Court and sought for a mandamus directing the respondents to remove the wall surrounding the appellant's patta land in the cart road blocking the free access to the appellant's land in an extent of 30 cents in Survey Nos.1976/1A and in an extent of 34 ½ cents situated at Survey No.1949 at Kavalkinaru Vilakku, Perungudi Village, Valliyoor Panchayat Union, Tirunelveli District.

3.The Writ Court, after considering the rival contentions of the parties, disposed of the writ petition by specifically noting the fact that the respondents have provided four feet pathway and the same could be used by the appellant and other local people as a matter of right to enter the property. Now, it is contended before us that such space is not sufficient for the appellant-writ petitioner and on the other hand, more space should be provided, Apart from the fact that the respondents are not at all entitled to put up compound wall surrounding the appellant's property, which affects his easementary right as well.

4.Though the learned counsel for the appellant strenuously contended that the respondents are not justified in putting up the compound wall, thereby affecting the ingress and egress of the appellant's property, we are not inclined to go into such dispute with regard to the appellant's right over the particular property, more particularly, when we find that this issue is more of a civil nature which has to be agitated and adjudicated upon only before the competent Civil Court by filing appropriate civil suit. Since the Writ Court has disposed of the writ petition only by noting that the appellant is having four feet pathway, if the appellant is still aggrieved, it is open to him to file a civil suit before the competent Civil Court and seek for appropriate relief.

5.Granted such liberty, this writ appeal is dismissed without expressing any view on the merits of the claim made by the appellant and it is for him to agitate before the competent Civil Court. If any such suit is filed, the Civil Court will consider the same on its own merits and in accordance with law without reference to the period of limitation, if any. No costs. Consequently, M.P (MD)No.1 of 2013 is closed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1.The Secretary to Government,
Government of Tamil Nadu,
Department of Agricultural
Marketing and Agri Business,
St.George Fort,
Chennai-9.



2.The District Collector,
District Collectorate Building,
Tirunelveli,
Tirunelveli District.

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+1CC to Mr.C.Dhanaseelan Advocate in SR.No.69265.

SMS

DS/SB/SAR-1 :04.07.2018: 3P/4C

W.A (MD) .No.619 of 2013
21.06.2018