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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 14.03.2018
CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) .No.267 of 2013

W.Mohammed Anisur Rahman .. Petitioner

Vs.

1.The District Collector,
Pudukottai District,
Pudukottai.

2.The Divisional Railway Manager(Works)
Southern Railway,
Madurai.

3.Thiru.R.Senthil Nathan ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order bearing Na.Ka.No.24557/2011/E1, dated 19.04.2012 passed by the 1st respondent and quash the same and consequently direct the respondents to restore the cart track connecting Trichy - Pudukottai main road and unmanned level crossing No.344 in Trichy-Pudukottai section on Mandayur Letchumanapatti Village.

For Petitioner : Mr.T.Antony Arul Raj
For R1 : Mr.D.Muruganantham
Additional Government Pleader
For R2 : Mr.S.Manohar
Standing Counsel
For R3 : Mr.N.Vallinayagam Senior Counsel
for Mr.D.Nallathambi

O R D E R

[Order of the Court was delivered by T.S.SIVAGNANAM, J.]

Heard Mr.T.Antony Arul Raj, learned counsel appearing for the petitioner, Mr.D.Muruganantham, learned Additional Government Pleader, Mr.S.Manohar, learned Standing Counsel appearing for the second respondent and Mr.N.Vallinayagam, learned Senior Counsel for Mr.D.Nallathambi, learned counsel appearing for the third respondent.



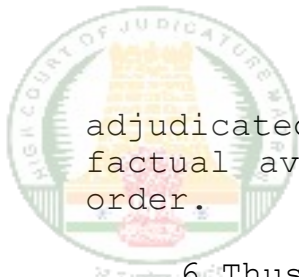
2.The petitioner has challenged the impugned proceedings issued by the first respondent, District Collector, dated 19.04.2012. Though the facts of the case appears to be very complicated, the issue that falls for consideration lies in a very narrow compass.

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3.The petitioner, who is the owner of the lands comprised in Survey Nos.331 and 315 in Letchumanapatti Village, has developed a housing layout. According to the petitioner, he has got access to the said property from Trichy to Pudukkottai Highway. Though the public were using the said access / pathway for several decades, the third respondent, who has purchased the property in Survey No.397, put up a Compound Wall blocking the access. Therefore, the petitioner submitted a complaint before the first respondent, District Collector. The first respondent submitted a report which appears to be in favour of the petitioner. However, the Revenue Divisional Officer submitted a report that the Compound wall put up by the third respondent is in their patta land. Referring to those reports and also with regard to the title of the third respondent to the properties owned by them in Survey No.397, the first respondent has passed the impugned proceedings declining to comply with the request made by the petitioner. There was an unmanned level crossing near the northern side of the third respondent's property. The petitioner claims that the people used to have the access to the lands in Survey Nos.315 and 316 from Trichy to Pudukkottai Highway by crossing the unmanned level crossing and reach the lands. Thus, essentially the claim of the petitioner is that they have a right of access from Trichy to Pudukkottai Highway. The Field Map Sketch produced before us shows that the property owned by the petitioner does not appear to be adjacent to railway track, but there is another property bearing Survey No.320, which is owned by a third party. Further, the first respondent, while passing the impugned order, has referred to the revenue records and has stated that there is no existing pathway from Trichy to Pudukottai main road via Survey No.397 to reach Survey No.350. It appears that since the land was allowed to be vacant, people were using the same for grazing their cattle and to take the cattle to the nearby water body.

4.The learned counsel for the petitioner advanced one more submission, which is based upon the title of the third respondent to the property in Survey No.397.

5.In our considered view, this issue cannot be gone into in this writ petition, especially, when the third respondent claims title to the property in Survey No.397. Therefore, the feeble attempt of the petitioner to question the title of the third respondent is doubtful. The unmanned level crossing has now been closed and it has been shifted to a different location and we are informed that the railways also provided a way for the villagers to access the properties beyond the railway line. It is evidentially clear that the issues raised by the petitioner in this writ petition are the disputed questions of fact and the claims cannot be



adjudicated in the writ petition, especially, in the light of the factual averments set out by the first respondent in the impugned order.

6. Thus, for the above reasons, we are not inclined to interfere with the impugned order and the writ petition stands dismissed. This order shall not stand in the way of the petitioner to workout his remedy before the appropriate forum in the manner known to law. No costs.

Sd/
Assistant Registrar (CS -I)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Pudukottai District,
Pudukottai.
2. The Divisional Railway Manager (Works)
Southern Railway,
Madurai.

+1CC Mr.D.Nallthambi, Advocate SR.No.55339
+1cc Mr.T.Antony ArulRaj, Advocate SR.No.55377
+1cc Mr.S.Manohar, Advocate SR.No.56029
+1cc Special Government Pleader SR.No.55650

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