

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.28481 of 2018
and W.M.P.No.33229 of 2018

Tmt.Kala

... Petitioner

Vs.

1.The Inspector of Panchayats,
District Collector, Vellore District.

2.The Arakkonam Panchayat Union,
Rep. by its Commissioner,
Arakkonam, Vellore District.

3.The Ananthapuram Village Panchayat,
Rep. by its Executive Authority,
Ananthapuram Village,
Arakkonam Taluk, Vellore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the respondents from doing any act so as to prevent the petitioner's access of ingress and egress to the Thakkolam-Ananthapuram State Highway to reach the petitioners agricultural lands comprised in S.No.77/7 having extent of 32.5 cents and S.No.77/13 extent 29 cents situate in Ananthapuram Village, Arakkonam Taluk, Vellore District.

For Petitioner : Mr.G.Jeremiah

For Respondents : Mr.M.Karthi Keyan for R1
Additional Government Pleader
Mr.R.Neela Kandan for RR2 & 3
Government Advocate

ORDER

The writ petition has been filed by the petitioner seeking to forbear the respondents from doing any act so as to prevent the petitioner's access of ingress and egress to the Thakkolam-

Ananthapuram State Highway Road to reach the petitioners agricultural lands comprised in S.No.77/7 having extent of 32.5 cents and S.No.77/13 extent 29 cents situated in Ananthapuram Village, Arakkonam Taluk, Vellore District.

2. According to the learned counsel for the petitioner, the northern portion of S.No.77 was classified as battai and has been in existence from time immemorial. The land in S.No.77/4, which was subdivided as battai, was further subdivided as 77/4A and converted as road while S.No.77/4B was assigned for construction of the Panchayat Primary School. The existing Road was converted as State Highway known as Thakkolam - Ananthapuram State Highway. The only access to the highway from the petitioner's agricultural land is over the road margin in S.No.77/4A.

3. According to the learned counsel for the petitioner, the school was in dilapidated condition and therefore it was decided by the respondents 2 and 3 to construct a new building which was also constructed. In order to protect the petitioner's property, the present writ petition has been filed before this Court seeking to restrain the respondents from constructing the boundary wall on the northern side of the property so as to protect access to the petitioner's land.

4. The learned Additional Government Pleader filed the counter affidavit wherein, it is stated that S.No.77/4, which was subdivided as battai was further subdivided as 77/4A was converted as road, while S.No.77/4B was assigned for construction of the Panchayat Primary School. The said fact was also not disputed by both the parties.

5. According to the learned Additional Government Pleader, since the existing primary school building was in a dilapidated condition, the Block Development Officer (Village Panchayat) Arakkonam Panchayat Union in its letter in Na.No.A2/682/2017 dated 24.03.2017, requested the District Collector, Vellore, to grant permission which was granted to demolish the existing primary school building in Ananthapuram Panchayat Village vide proceedings in Naka.No.A8/2479/2015 dated 12.07.2017, on condition that the proposal for demolishing the old school building is only for the benefit of the school children and land comprised in S.No.77/4B in Ananthapuram Panchayat Village. The contention of the petitioner is disputed by the Respondent, such disputed fact cannot be gone into the writ petition.

6.By considering the aforesaid facts, the prayer sought for in the petition, cannot be considered under Article 226 Constitution of India and the petitioner has the right to approach the Civil Court to seek remedy.

7.Accordingly, the writ petition is dismissed with a liberty to the petitioner to approach the Civil Court. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Inspector of Panchayats,
District Collector, Vellore District.
- 2.The Commissioner,
Arakkonam Panchayat Union,
Arakkonam, Vellore District.
- 3.The Executive Authority,
Ananthapuram Village Panchayat,
Ananthapuram Village,
Arakkonam Taluk, Vellore District.

+1cc to the Government Pleader Sr.24201
+1cc to Mr.G.Jeremiah, Advocate Sr.24076

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srg 06/06/2019