



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.09.2019

CORAM:

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

Writ Petition (MD) Nos.14603 of 2018 and 16617 of 2016

W.P. (MD)No.14603 of 2018

V.Lakshmi

... Petitioner

Vs.

1.The Superintendent of Police,
Theni.

2.The Inspector of Police,
Palanichettipatty Police Station,
Theni District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to consider the petitioner's representation, dated 16.06.2018, and to give police protection to the petitioner's life and limb.

For Petitioner : No appearance

For Respondents : Mr.A.Muthu Karuppan
Additional Government Pleader

W.P. (MD)No.16617 of 2016

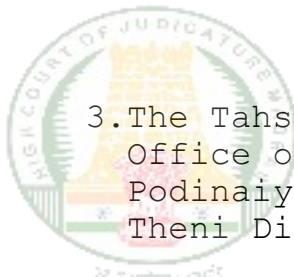
V.Lakshmi

... Petitioner

Vs.

1.The District Collector,
Theni District, Theni.

2.The Revenue Divisional Officer,
Uthamapalayam,
Theni District.



3.The Tahsildar,
Office of Tahsildar,
Podinaiyakkanur,
Theni District.

4.R.Suppuraj

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 1 to 3 to forbear the fourth respondent from laying the road in (Channel) Government Odai Poramboke in Survey No.5/1 measuring to an extent of 0.25.5 hectares situated at Kodankgipatti Village, Podinaiyakanur Sub Division, Periyakulam registration District, Theni District, by considering the petitioner's representation, dated 11.08.2016.

For Petitioner	:	No appearance
For R1 to R3	:	Mr.A.Muthu Karuppan Additional Government Pleader

C O M M O N O R D E R

(Order of the Court was made by **T.S.SIVAGNANAM,J.**)

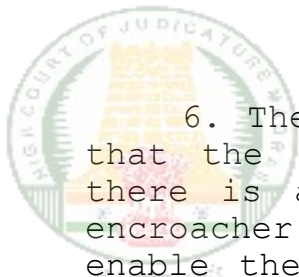
None appears for the petitioner.

2. Heard Mr.A.Muthu Karuppan, learned Additional Government Pleader is appearing for the official respondents.

3. W.P.(MD)No.14603 of 2018 has been filed seeking for a direction upon the respondents to consider the petitioner's representation, dated 16.06.2018 and grant police protection.

4. From the order sheet, it is seen that on two earlier occasions, there was no representation on behalf of the petitioner. On the earlier occasion, when the matter came up before the Single Bench, the Court, by order dated 27.08.2019, directed the writ petition to be tagged along with W.P.(MD).No.16617 of 2016. The said writ petition has also been tagged along with this writ petition and listed before us today.

5. The petitioner in both the writ petitions is one and the same, except for a different counsel being engaged by the petitioner in these cases. The relief sought for in W.P.(MD).No.16617 of 2016 is to forbear the fourth respondent viz., one R.Suppuraj from laying a road in a channel which is classified as a Odai Poramboke in Survey No.5/1 at Kodankgipatti Village, Podinaiyakanur Sub Division, Periyakulam registration District, Theni District, by considering the petitioner's representation.



6. The fourth respondent has filed a counter affidavit stating that the fourth respondent has given a representation, in which there is an allegation that the writ petitioner V.Lakshmi is an encroacher and request was made for removal of the encroachment, to enable the fourth respondent to use the land in Survey No.5/1 to reach his lands. It is further submitted that based on the representation given by the fourth respondent, the Tahsildar, Bodinayakanur, Theni District, is stated to have passed an order directing the removal of encroachment and since the land was classified as Odai Poramboke, the Assistant Engineer (PWD), Irrigation Department was directed to take appropriate action. According to the fourth respondent, the writ petitioner V.Lakshmi has suppressed these proceedings and has filed these writ petitions with false and frivolous averments. Further, it is submitted by the fourth respondent that he has been granted a lease to quarry the lands mentioned in paragraph - 9 of the counter affidavit. Further, the allegation is that the fourth respondent has violated the order of *status quo*, which was granted by the Single Bench. The fourth respondent would further state that he has not received any notice in W.P.(MD).No.16617 of 2016 and further for the contempt notice, he has sent a reply. But the contempt notice returned with the postal endorsement 'no such address'. Therefore, the fourth respondent prays for dismissal of the W.P.(MD).No.16617 of 2016.

7. One of the writ petition is pending from 2016 and an order of *status quo* was initially granted for a period of four weeks with the direction to the learned Government Pleader to obtain instruction as the land is classified as Odai in the revenue records and in the face of such classification, road cannot be formed through out, in the mean time. No counter has been filed by the official respondents. The present state of affairs has not been informed to the Court. Therefore, we direct the Tahsildar, Bodinayakanur, Then District to conduct a comprehensive enquiry in the matter, ascertain as to whether the writ petitioner is an encroacher or the fourth respondent is the encroacher, what further steps was taken, pursuant to the order of the Tahsildar, dated 26.08.2016, etc., and before taking any action, the third respondent is directed to issue notice to the writ petitioner and the fourth respondent.

8. With the above direction, these writ petitions are disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)



To

1. The District Collector,
Theni District, Theni.
2. The Superintendent of Police,
Theni.
3. The Revenue Divisional Officer,
Uthamapalayam, Theni District.
4. The Tahsildar,
Office of Tahsildar,
Podinaiyakkanur,
Theni District.
5. The Inspector of Police,
Palanichettipatty Police Station,
Theni District.

W.P. (MD) Nos.14603 of 2018 and 16617 of 2016
30.09.2019

akv

CS (30.10.2019) 4P 6C