



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P. (MD) No.19597 of 2018

M.Ponkumaran

... Petitioner

-vs-

- 1.The District Collector,
Thoothukudi,
Thoothukudi District.
- 2.The Tahsildar,
Thiruchendur Taluk,
Thiruchendur,
Thoothukudi District.
- 3.The Block Development Officer,
Thiruchendur Town Panchayat,
Thiruchendur,
Thoothukudi District.
- 4.The Executive Officer,
Thiruchendur Town Panchayat,
Thiruchendur,
Thoothukudi District.
- 5.The Assistant Electric Engineer Distribution,
Tamil Nadu Generation and Distribution Corporation,
(TANGEDCO), Thiruchendur,
Thoothukudi District.
- 6.Murugesan
- 7.Vetrivel
- 8.Jeyabal
- 9.Ganesan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of Na.Ka.No.Aa2/8794/2017, dated 23.04.2018, passed by the 2nd respondent and quash the same and consequently directing the respondents 1 to 4 to remove the wall constructed across the Bharathiyar Street, at S.No.253/7B1 in Thiruchendur, Thoothukudi District.

For Petitioner : Mr.R.Murugappan

For Respondents 1 to 4 : Mr.A.K.Baskarapandian
Special Government Pleader



For 5th Respondent : Mrs.Srimathy
For Respondents 6 to 9 : Mr.J.Ashok

O R D E R

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

WEB COPY

Heard Mr.R.Murugappan, learned counsel appearing for the petitioner, Mr.A.K.Baskarapandian, learned Special Government Pleader, who accepts notice on behalf of the respondents 1 to 4, Mrs.Srimathy, learned Standing Counsel, who accepts notice on behalf of the 5th respondent and Mr.J.Ashok, learned counsel appearing for the respondents 6 to 9.

2.The petitioner by way of this Writ Petition challenged the order of the Tahsildar, Tiruchendur dated 23.04.2018 and prays for a consequential direction upon the official respondents to remove the wall and which according to the petitioner constructed blocking the public passage.

3.The case of the petitioner is that the representation given by the petitioner on 09.09.2017 was not considered and therefore, the petitioner has approached this Court and filed W.P.(MD) No.17925 of 2017, to direct the respondents to remove the wall put up across a pathway, which according to the petitioner is a public pathway. The said writ petition was pending. In the meanwhile, the petitioner filed another writ petition in W.P.(MD) No.19109 of 2017, seeking to quash the proceedings of the Assistant Engineer, TANGEDCO and to direct him to grant new electricity connection to his house and the electricity connection was granted to him. Based on the order passed by this Court in W.P.(MD) No.21319 of 2017, the second respondent Tahsildar, Thiruchendur has conducted survey of the land in question and passed an order in no uncertain terms stating that the claim of the petitioner that there is a public pathway is not correct and that is a patta land and challenging the same, the petitioner has filed this Writ Petition.

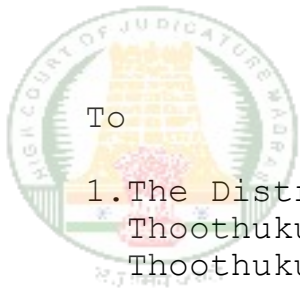
4.If the petitioner claims any easementary right over the passage, his remedy is not before this Writ Court. However, one obstacle is the stand taken by the Revenue officials stating that the pathway is in patta land. Therefore, the petitioner cannot claim any relief in a writ petition.

5.In the result, the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(AD-II)

/TRUE COPY/

Sub Assistant Registrar



To

1.The District Collector,
Thoothukudi,
Thoothukudi District.

2.The Tahsildar,
Thiruchendur Taluk,
Thiruchendur,
Thoothukudi District.

3.The Block Development Officer,
Thiruchendur Town Panchayat,
Thiruchendur,
Thoothukudi District.

4.The Executive Officer,
Thiruchendur Town Panchayat,
Thiruchendur,
Thoothukudi District.

+1 CC to M/s.J.ASHOK, Advocate (SR-86036[F] dated 10/09/2019)

+1 CC to M/s.R.MURUGAPPAN, Advocate (SR-86372[F] dated 12/09/2019)

W.P. (MD) No.19597 of 2018
09.09.2019

sj

JM/23.09.2019/3P/7C