

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2020

C O R A M

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P.Nos.33336 & 33337 of 2015

&

M.P.Nos.1 & 1 of 2015

Chidambararaja ... Petitioner in W.P.No.33336 of 2015

S.Kamaladevi ... Petitioner in W.P.No.33337 of 2015

Vs.

1.The District Collector,
District Collectorate,
Salem.

2.The Revenue Divisional Officer,
Salem.

3.The Tahsildar,
Yercaud Taluk Officer,
Yercaud, Salem District.

4.The Inspector of Police,
Yercaud Police Station,
Yercaud, Salem District.

5.The District Forest Officer,
Salem.

6.The Forest Ranger,
Yercaud Range Office,
Yercaud, Salem District.

7.K.Madesh

8.K.Vijayakumar

9.V.Sundaram

10.K.Madaiyan

11.The District surveyor,
Survey and Boundaries Department,
Salem.

Respondents in both W.Ps.

(R7 to R11 are impleaded as
per order dated 20.04.2017 of
this Court in MP.No.2 of 2015
& WMP.No.1203 of 2017 in
W.P.No.33336 of 2015 and
MP.No.2 of 2015 & WMP.No.1205
of 2017 in WP.No.33337 of
2015.)

COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India, for issuance of a writ of mandamus forbearing the respondents 1 to 3 their men, servants, agents or any person acting under them or through them or with their support, from laying any road in the patta lands of the petitioner's measuring on extent of 17.31 acres of plantation lands comprised R.s.NO.28,29/1,4,5,6,7&8 family in Survey No.29/3 of Pottukadu Village, Yercaud Taluk, Salem District except by due process of law.

For Petitioner
in both W.Ps : Mr.D.Shivakumaran

For Respondents 1 to 6 : Mr.R.S.Selvam,
in both W.Ps. Government Advocate

For Respondents 7 to 10 : Mr.V.Subramanian,
in both W.Ps. for Mr.S.P.Yuvaraj

COMMON ORDER

These writ petitions have been filed one by the mother and the other by the son for a mandamus to forbear the respondents 1 to 3 from laying any road in the patta lands belonging to the family of the respective petitioners in S.No. 29/3 of Pottukadu Village, Yercaud Taluk, Salem District except by due process of law.

2. It is the contention of the respective petitioners that there is a common pathway measuring an extent of three yards in width passing through the petitioners' as well as neighbouring patta lands. According to them, the villagers who have attempted to encroach upon the petitioners' property have been impleaded as respondents 7 to 10 in both the writ petitions. It is their case that the respondents 7 to 10 are attempting to encroach upon the petitioners' property with the connivance of respondents 1 to 3 by laying a road beyond the limit of three yards width which was meant for common pathway as per the G.O. namely Salem District Gazette, Forest Sheet No.1A dated 09.01.1892. In such circumstance, these writ petitions have been filed.

3. A counter affidavit has also been filed by the third respondent in W.P.No.33336 of 2015 denying the allegations contained in the affidavit filed in support of these writ petitions and they have also stated that the villagers are laying the road only in accordance with Salem District Forest Gazette No.1A dated 09.01.1892.

4. Heard Mr.D.Shivakumaran, learned counsel for the petitioner, Mr.R.S.Selvam, learned Government Advocate for the

respondents 1 to 6 and Mr.V.Subramanian, learned counsel for the respondents 7 to 10.

5. It is not in dispute about the existence of Salem District, Forest Gazette No.1A dated 09.01.1892 which permits the villagers to use the pathway through the respective petitioners' lands. It is the contention of the respective petitioners that the pathway mentioned in the G.O. namely Salem District Gazette, Forest Sheet No.1A dated 09.01.1892 measures only 3 yards in width.

6. The respondents 1 to 3 as seen from the counter affidavit have also categorically stated that the pathway is being laid only in accordance with G.O. namely Salem District Gazette, Forest Sheet No.1A dated 09.01.1892 and there is no attempt to encroach upon the petitioners' lands. The learned counsel for the respondents 7 to 10 who are the villagers has also submitted that the pathway is being laid only in accordance with G.O. namely Salem District Gazette, Forest Sheet No.1A dated 09.01.1892. In view of the same, the apprehension of the respective petitioners in these writ petitions is uncalled for.

7. Recording the submissions made by the learned counsels appearing on both sides as well as the statement made by the third respondent in his counter affidavit, the following directions are issued by this Court:

(a) the respondents shall strictly adhere to G.O. namely Salem District Gazette, Forest Sheet No.1A dated 09.01.1892 and they shall not encroach upon the petitioners' lands.

(b) the respondents while laying the common pathway shall not operate the JCBs into the petitioners' lands.

8. With the aforesaid directions, these writ petitions are disposed of. No cost. Consequently, connected miscellaneous petitions are closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

nl

To

1.The District Collector,
District Collectorate,
Salem.

2.The Revenue Divisional Officer,
Salem.

3.The Tahsildar,
Yercaud Taluk Officer,
Yercaud, Salem District.

4.The Inspector of Police,
Yercaud Police Station,
Yercaud, Salem District.

5.The District Forest Officer,
Salem.

6.The Forest Ranger,
Yercaud Range Office,
Yercaud, Salem District.

+2ccs to Mr.D.Shivakumaran , Advocate SR.No. 10939,109940

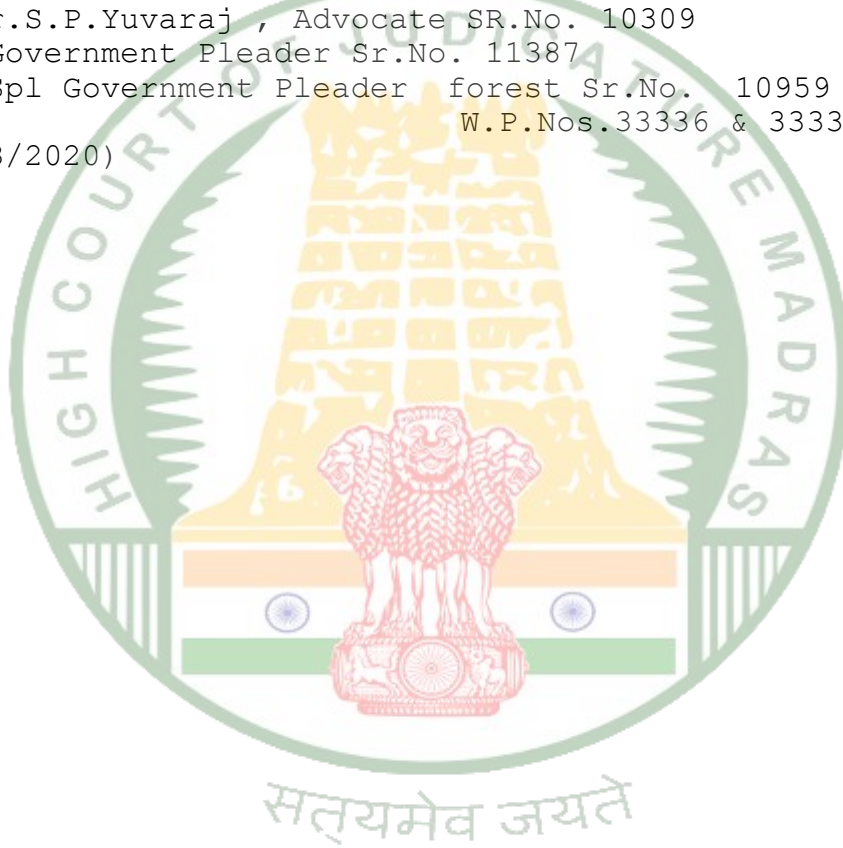
+1cc to Mr.S.P.Yuvaraj , Advocate SR.No. 10309

+1 cc to Government Pleader Sr.No. 11387

+1 cc to Spl Government Pleader forest Sr.No. 10959

W.P.Nos.33336 & 33337 of 2015

A.SK(11/03/2020)



WEB COPY