



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.06.2020

CORAM

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P (MD) No. 6797 of 2020 and
WMP (MD).NO.6197 of 2020

M. Thiruppathi

Petitioner

vs.

1.The District Collector,
Collector Office,
Madurai.

2.The Revenue Divisional Officer,
Melur Revenue Divisional Office,
Camp-Othakadai,
Madurai.

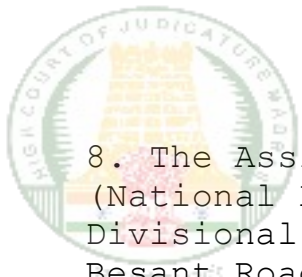
3.The Tahsildar,
Madurai East Taluk,
Narasingam, Othakadai,
Madurai.

4.The Executive Engineer (PWD),
Periyar Vaigai Canal Sub Division -2,
Tallakulam,
Madurai - 625 002.

5.The Assistant Executive Engineer (PWD),
Periyar Vaigai Canal Sub Division -2,
Tallakulam,
Madurai - 625 002.

6.The Divisional Engineer,
(National Highways),
Divisional Engineer Office,
Besant Road, Madurai - 625 002.

7. The Assistant Divisional Engineer,
(National Highways),
Divisional Engineer Office,
Besant Road, Madurai - 625 002.



8. The Assistant Engineer,
(National Highways),
Divisional Engineer Office,
Besant Road, Madurai - 625 002.

Respondents

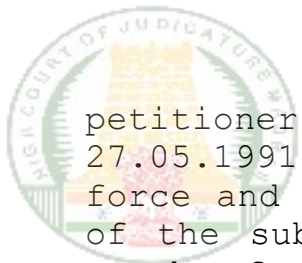
PRAYER:- This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to consider his representation dated 29.11.2019 and pass suitable orders and until then restrain the respondents their men and agents from in any way interfering with his peaceful possession and enjoyment of his property measuring an extent of 0.11.50 Ares (28.40 cents) bearing present S.No.130/5C (Old S.No. 278/5) of Vandiyur Bit II Village, presently Madurai East Taluk, previously Madurai North Taluk, Madurai District under the color of laying road by using their power and authority.

For Petitioner : Mr. S. Ramesh
For Respondents : Mr. M. Rajarajan
Government Advocate

ORDER

This Writ Petition has been filed for issuing a direction to the respondents to consider the petitioner's representation dated 29.11.2019 and pass suitable orders and until then restrain the respondents their men and agents from in any way interfering with his peaceful possession and enjoyment of his property measuring an extent of 0.11.50 Ares (28.40 cents) bearing present S.No.130/5C (Old S.No. 278/5) of Vandiyur Bit II Village, presently Madurai East Taluk, previously Madurai North Taluk, Madurai District under the color of laying road by using their power and authority.

2. The case of the petitioner is that he is having property situated in Vandiyur Bit II Village, presently bearing S.No.130/5C with an extent of 0.11.50 Ares (28 Cents) and the Patta has been issued in Patta No.1370 to him. As he derived the title from the mother Sethu @ Ponnammal, who has executed a CODICIL WILL dated 27.05.1991 and in the S.No.130/5, total extent available was 0.22.5 Ares i.e., 56 Cents. The petitioner's maternal grandmother Natchiyar @ Vellaiyammal along with Seeniammal @ Andathayammal was jointly holding 55 Cents. They also entered into a registered partition on 05.09.1964, wherein the Doct.No.336/1964, in and by which "A" schedule therein was allotted to Natchiyar @ Vellaiammal and "B" schedule therein was allotted to Seeniammal @ Andathayammal. On the demise of petitioner's maternal grandmother Nachiyar @ Vellaimmal, the petitioner's mother Sethu @ Ponnammal being the sole legal representative inherited the property. As the mother of the



petitioner passed away on 31.12.1993, the CODICIL WILL dated 27.05.1991 which was the last WILL executed by her came into force and as per the WILL, the petitioner became the title holder of the subject property. The petitioner's property lies on the North of the river Vaigai and the petitioner's property on the South is the River Bed road can be laid, as sufficient and substantial land is available in the Promoboke. Instead of acquiring the property belonging to an individual patta / title holder like petitioner and paying compensation from the exchequer, the road can be laid in the available Government land without incurring any financial commitment or burden to the exchequer towards acquisition process. In such circumstances, the petitioner has sent a representation dated 29.11.2019, but, the same has not been considered so far. Hence, the petitioner has filed the present Writ Petition before this Court.

3. The learned Government Advocate appearing for the respondents would submit that the petitioner is obstructing the laying of road. He would further submit that the representation of the petitioner will be considered by the respondents within the time frame to be fixed by this Court.

4. The learned counsel appearing for the petitioner would submit that no acquisition process has been initiated against the petitioner and no notice has been issued for the same. In case, the respondents acquired the land, the petitioner is entitled to compensation.

5. Considering the submissions made by the learned counsel appearing on either side, this Court directs the respondents to consider the representation of the petitioner dated 29.11.2019, by surveying the land and holding proper enquiry, after affording an opportunity of hearing to the petitioner and other necessary parties, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Crl Side)

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/ /2020

Sub Assistant Registrar(CS)



To

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KG (CO)
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