



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.07.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

WEB COPY

W.P. (MD)No.7513 of 2020

and

W.M.P. (MD)No.6996 of 2020

K.Sundar

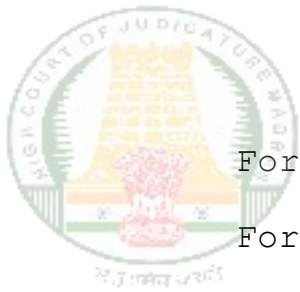
... Petitioner

Vs.

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The Revenue Divisional Officer,
Sivagangai District,
Sivagangai.
3. The Tahsildar,
ThiruppuvanamTaluk,
Sivagangai District.
4. The Tahsildar (Ground Records),
Sivagangai District, Sivagangai.
5. The Inspector of Police,
Thiruppuvanam Police Station,
Sivagangai District.
6. K.Padmanabhan,
S/o.Kannan,
2/69, Nelmudikarai Village,
Near Railway Gate,
Thiruppavanam,
Sivagangai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents 2 to 5 not to put-up illegal fencing on the common pathway leads to the petitioner's house located in Survey No.103/14, Nelmudikkarai village, old ward No.2, New ward No.15, Thiruppuvanam Taluk, Sivagangai District.



For Petitioner : Mr.N.Satheesh Kumar
For Respondents : Mr.VR.Shanmuganathan
Special Government Pleader
R1 to R5

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O R D E R

[Order of the Court was made by **M. SATHYANARAYANAN, J.**]

The petitioner claims to be a resident of Nelmudikkarai village, Thiruppuvanam Taluk, Sivagangai District, came forward to file this Writ Petition stating among other things that there is an existing common pathway which leads to the petitioner's house located in Survey No.103/14, Nelmudikkarai village, old ward No.2, New ward No.15, Thiruppuvanam Taluk, Sivagangai District.

2. According to the learned counsel appearing for the petitioner, the sixth respondent has been causing obstruction to the said common pathway and as a consequence, access would be denied to the petitioner to the South located in the said survey number. The learned counsel appearing for the petitioner also expressed his grievance that the official respondents, more particularly respondents 2 to 5, are aiding and abetting the sixth respondent in committing the said illegal act and in this regard, he has also submitted representations dated 15.06.2020 and 20.06.2020, to the first respondent and despite receipt of acknowledgment, no action whatsoever has been taken to abate the illegalities and therefore, the petitioner came forward to file this Writ Petition.

3. Mr.VR.Shanmuganathan, learned Special Government Pleader, accepts notice on behalf of the respondents 2 to 5 and on instructions would submit that the total extent of land available in Survey No.103/14 was six cents and patta had already been granted in favour of four persons and now, the sixth respondent has been granted patta in respect of one and half cents in the very same survey number and further pointed out that even as per the partition deed dated 01.02.1982, much less the representations submitted by the petitioner disclose that it is not a public pathway and as such, the remedy open to the petitioner, if any, lies elsewhere and prays for dismissal of the Writ Petition.

4. This Court considered the rival submissions and perused the materials placed before this Court.

5. A perusal of the E-Schedule to the partition deed dated 01.02.1982 would disclose that the pathway has been described as



East-West and South-North, four feet pathway. A reading of the representations dated 15.06.2020 as well as 20.06.2020 would also disclose that the petitioner in technical sense is claiming an easementary right. In the absence of any material record to show that the alleged pathway is the public pathway and taking into consideration the submissions made by the learned Special Government Pleader appearing for the official respondents as to the grant of patta in favour of five persons including the sixth respondent in Survey No.103/14, Nelmudikkarai village, old ward No.2, New ward No.15, Thiruppuvanam Taluk, Sivagangai District, this Court is of the considered view that the points urged by the learned counsel for the petitioner involve adjudication of disputed question of facts and the same cannot be gone into this writ petition.

6. In the result, the Writ Petition is dismissed. However, the petitioner is granted liberty to work out his remedy in accordance with law before the competent forum. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pkn/sj

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned

To

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The Revenue Divisional Officer,
Sivagangai District,
Sivagangai.



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