



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

WP(MD)No.8132 of 2020

R.Vellaiammal

... Petitioner

Vs.

1.The District Collector,
Collectorate, Dindigul District.

2.The Executive Officer,
O/O.the Executive Officer,
Vedachandur Town Panchayat,
Dindigul District.

3.The Tahsildar,
Vedachandur Taluk Office,
Dindigul District.

4.Muthusamy

... Respondents

(R4 was suo motu impleaded vide
court order dated 27.08.2020 in WP(MD)No.8132/2020)

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, to direct the second respondent to grant a license to the petitioner to put up Front House Gate in a public lane which is vested in the Vedachandur Town Panchayat for Access to the house premises situated in S.No.1886/2017, Pampatti Street, Vedachandur Village, Vedachandur Taluk, Dindigul District in the light of Section 183 of Tamil Nadu District Municipalities Act, 1920, within the time stipulated by this Court.

For Petitioner	:	Mr.L.Pinaygash
For Respondents	:	Mr.M.Rajarajan, Additional Government Pleader for R1 to R3 No appearance for R4

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 3.

2.The petitioner is residing at the petition mentioned premises. A narrow lane leads to the petitioner's property. The lane is bounded on the one side by the house that belongs to the petitioner's brother. The petitioner wanted to put up a



wicket gate so as to enclose the said lane. Since the lane is without any enclosure, according to the petitioner it is being used for committing all kinds of nuisance by others. It is not in dispute that the lane is a common property of the petitioner and her brother Muthusamy. Without concurrence from the petitioner's brother, the petitioner had earlier put up a gate. Since the permission of the local body was not obtained, the same was also removed. As per Section 183 of the Tamil Nadu District Municipalities Act, 1920, the local body can grant license to the owner of a premise to put up construction of the present nature. Seeking a direction to the local body to issue such license, this writ petition has been filed.

3.I felt that the writ petitioner cannot get an order behind the back of his brother. Therefore, I suo motu impleaded the petitioner's brother and directed issuance of notice to him. Though the impleaded respondent has been served and his name is also printed in the cause list, there is no appearance on his behalf either in person or through counsel.

4.Though the learned Government counsel would claim that the property in question is a Government property, there is no material in support of the said assertion. In any event, I leave the said issue open. As of now, it appears from the materials on record that the narrow lane is a common property of the petitioner and the fourth respondent. In fact, the lane leads only to the petitioner's premise and does not leave anywhere else. Since it is a common lane, I permit the petitioner to enclose the same in such a manner that it will be easily accessible to the fourth respondent also. Suppose the petitioner puts up a lock, the fourth respondent will have the duplicate key. I leave open the arrangement to be worked out between the fourth respondent and the petitioner. I make it clear that by enclosing the property in question, the rights of the fourth respondent over the lane will not in any way be affected. The second respondent is directed to issue permission to the petitioner herein to put up the aforesaid enclosure on the terms I have already indicated.

5.This writ petition is allowed. No costs.

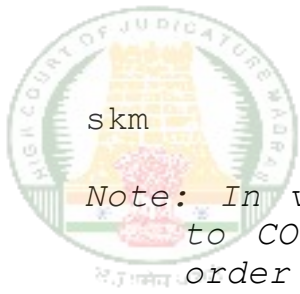
Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



skm

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,
Collectorate, Dindigul District.

2.The Executive Officer,
O/o.the Executive Officer,
Vedachandur Town Panchayat,
Dindigul District.

3.The Tahsildar,
Vedachandur Taluk Office,
Dindigul District.

+1 CC to SGP (SR-17584[F] dated 21/09/2020)

WP (MD) No. 8132 of 2020
18.09.2020

SS (CO)
KM (05.10.2020) 3P 5C