



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2020

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P.(MD)No.9399 of 2020
and
W.M.P.(MD).No.8536 of 2020

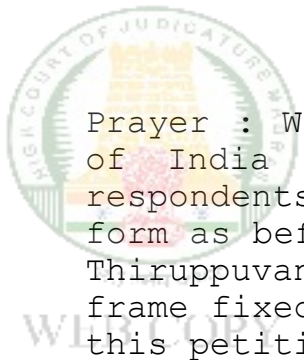
Vadi Village Public
rep. by S.Karuppasamy,
S/o.Shanmugavelu,
Vadi Village, Piramanur,
Thiruppuvanam (Via)
Sivagangai District.

... Petitioner

Vs.

1. The District Collector,
Sivagangai District.
Sivagangai - 630 562.
2. The Revenue Divisional Officer,
Sivagangai Revenue Division,
Sivagangai - 630 562.
3. The Tahsildar,
Thiruppuvanam Taluk,
Thiruppuvanam - 630 611.
Sivagangai District.
4. The Block Development Officer,
Thiruppuvanam Block,
Thiruppuvanam - 630 611.
Sivagangai District.
5. A.Jeganathan
6. M.Chinnasamy
7. R.Narayanan
- 8.S.Sethuraman

... Respondents



Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 4 restore the damaged road with tar top and full form as before in S.No.126 and 127/1 Vallerendhal revenue village in Thiruppuvanam Panchayat Union in Sivagangai District, within a time frame fixed by this Hon'ble Court as per the representations made by this petitioner dated 25.06.2020, 09.07.2020 and 21.07.2020.

For Petitioner : Mr. F.X.Eugene

For Respondents : Mr. B.Bagavathi,
Government Advocate for R1 to R3
Mrs.J.Padmavathi Devi,
Special Government Pleader for R4
Mr.R.Udhayakumar for R6

* * * * *

O R D E R

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

This writ petition is filed by a resident of Vadi Village, Piramanur Revenue Village and Panchayat, Thiruppuvanam Block, Sivagangai District and according to him, there exists a road for the benefit of commuters of Vadi Village in the south of Kiruthumal river in between the stone convert bridge maintained by Public Works Department in Survey Nos. 126 and 127/1 of Vallarenthal and the residents of the said locality have been using the road for time and again. Recently, the private respondents had damaged and demolished a part of the road and thereby, denying access to the residents. The petitioners/residents of Vadi Village, in this regard, submitted a representation dated 25.06.2020, to the first respondent and the copies were also marked to the other official respondents and despite receipt and acknowledgement of the same, no steps have been taken to abate the illegalities perpetuated by the private respondents and therefore, they are constrained to approach this Court by way of filing this writ petition.

2. The learned Counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents as well as to the photographs and would submit that despite the said road is used by the residents of Vadi Village for decades together, all of a sudden, the private respondents had damaged and demolished the road and that apart, also prevented the public from having access to the said road and this is the only way to reach the main road and therefore, prays for immediate, necessary and appropriate orders.



3. Mr.B.Bagavathi, learned Government Advocate accepts notice on behalf of the respondents 1 to 3 and Mrs.J.Padmavathi Devi, learned Special Government Pleader accepts notice on behalf of the fourth respondent and she has submitted a copy of the communication of the fourth respondent dated --.08.2020 in Na.Ka.A2/1333/2020, addressed to the Office of the Government Pleader and it is her submission that the length of the road is 1 Km., and the length of the damaged road is 90 metres and under the Road Development Project, a contract has been awarded to Mr.G.Ramasamy on 19.04.2013 and funds were also released and since the objection has been raised by the pattadhars, who owned the said land, the maintenance/repair of the said road has not been caused and as and when such permission is given, the development/repair of the road will take place.

4. This Court has carefully considered the rival submissions and perused the materials placed on record.

5. The learned Counsel appearing for the sixth respondent also submits that on an earlier occasion, for the very same relief, W.P.(MD).5772 of 2013, came to be filed and this Court, while disposing of the said writ petition on 24.04.2017, granted liberty to the concerned person to invoke the common law remedy and accordingly, the sixth respondent has filed O.S.No.25 of 2020, on the file of Principal Munsif Court, Thiruppuvanam, praying for a permanent injunction restraining the defendants, namely, the official respondents and private respondents from interfering with the peaceful possession and enjoyment of the land in question. The learned Counsel would further submit that the third respondent has also initiated the proceedings under Section 133 of Cr.P.C and has been put to challenge by filing CrI.OP.(MD).No.8034 of 2020 and the same is pending.

6. In the light of the above facts and circumstances, it is either open to the official respondents to persuade the private respondents to utilize their lands for the purpose of approach road or in the alternative, to acquire the lands by following due process of law.

7. Since it is the stand of the fourth respondent that in the light of the objections raised by the private respondents, no further proceedings are taking place either to repair the road or make the road ready for use, the petitioner cannot pray for a positive Mandamus and it is always open to the concerned aggrieved persons to invoke the common law remedy also before the competent legal forum.



8. In the result, Writ Petition is dismissed, subject to above observations. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar

WEB COPY

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Pkn

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 - 630 562.
2. The Revenue Divisional Officer,
Sivagangai Revenue Division,
Sivagangai - 630 562.
3. The Tahsildar,
Thiruppuvanam Taluk,
Thiruppuvanam - 630 611.
Sivagangai District.
4. The Block Development Officer,
Thiruppuvanam Block,
Thiruppuvanam - 630 611.
Sivagangai District.

+1 CC to The SPL GP (SR-14310[F] dated 18/08/2020)

+1 CC to Mr.F.X. EUGENE, Advocate (SR-14383[F] dated 19/08/2020)

W.P. (MD)No.9399 of 2020

and

W.M.P. (MD) .No.8536 of 2020

17.08.2020

CS (26.08.2020) 4P 7C