



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :07.09.2020

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

**W.P. (MD) No.10979 of 2020**

**and**

**W.M.P. (MD) No.9634 of 2020**

1.R.K.T.Krishnan

2.Ravindran

... Petitioners

Vs

1.The District Collector,  
Tiruchirapalli District.

2.The District Forest Officer,  
Tiruchirapallli District.

3.The Tahsildar,  
Thuraiyur Taluk,  
Thiruchirapalli District.

4.The Forest Ranger,  
Kurinji Malai Forests,  
Thuraiyur Taluk,  
Tiruchy District.

5.Sridhar Gopinath

6.Prabakaran

7.Kathiresan

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents not to interfere with the petitioners from using the pathway existing in FMB Plan in S.F.Nos. 243/3, 252/4, 250/2, 254/2, 255/2 and 267/3 and for 76 meters in Kurinchimalai forest land, in Nagalapuram Village, Thuraiyur Taluk, to reach their lands, morefully engraved in recent Government FMB plans.

For Petitioner : Mr.R.Singaravelan senior counsel for  
Mr.D.Selvanayagam



For R1 to R4 : Mr.M.Pandiarajan  
Additional Government Pleader

**ORDER**

This writ petition is filed to direct the respondents not to forbear the petitioners from using the pathway existing in S.F.Nos. 243/3, 252/4, 250/2, 254/2, 255/2, 267/3, as per FMB Plan, measuring to an extent of 76 mtrs, in Kurinchimalai forest land, situated at Nagalapuram Village, Thuraiyur Taluk, to reach their lands.

2.The learned senior counsel appearing for the petitioners would submit that the petitioners have purchased some of the lands in S.F.Nos.266/3A, 257/6, 257/9, 257/10 and 257/11. For several decades, the people, who own the land in and around the petitioners' land, have been using the pathway engraved with the permission of the respondents herein without any disturbance and hindrance as there is an arrangement for taking the FMB pathway to the corner of the private lands. The pathway, in which, the petitioners and others were permitted to have access to their lands is an alternative pathway and as per the FMB plan of the revenue department, the said pathway was running in the middle of the land of some individuals.

3.The learned senior counsel would further submit that as per the agreement entered between the land owners, the said pathway has been used as a pathway with the permission of the respondents. Both the FMB pathway and the alternative pathway cut across an edge of the forest land, measuring to an extent of 456 sq.mts., In the meantime, local arrangements were made with the permission of the Revenue Department between the individual owners, who own the lands in and around the FMB pathway, so as to push away the revenue pathway to a corner without disturbing the lands of the private persons and at this juncture, an exchange was made, as a result of which, the present pathway is being treated as a regular pathway with the consent of the Revenue Department.

4.The learned senior counsel would further submit that now the 2<sup>nd</sup> respondent / Forest Department had raised objection for the usage of the said pathway by claiming right over the same and stating that the aforesaid pathway comes under the control of the 2<sup>nd</sup> respondent. He would further submit that as per the FMB sketch of Nagalapuram Village, the said pathway runs in the middle of the land in S.F.Nos. 243/3, 252/4, 250/2, 254/2, 255/2 and 267/3 and that there is no forest at all in and around the said pathway. Therefore, as per the FMB sketch, the 2<sup>nd</sup> respondent cannot forbear the petitioners and other villagers from using the said pathway for accessing their lands. Narrating all the aforesaid facts, though the 1<sup>st</sup> petitioner has made a representation to the respondents with the relief sought for in the prayer as early as on 03.07.2020, no action has been taken so far. Hence, the present writ petition.



5. In reply, the learned Additional Government Pleader appearing for the respondents 1 to 4 would submit that the 1<sup>st</sup> petitioner's representation dated 03.07.2020, would be considered on merits and in accordance with law within a time frame to be fixed by this Court, after issuing notice to the 2<sup>nd</sup> respondent / the District Forest Officer, Tiruchirapalli District.

6. Heard the learned counsel on either side and perused the materials available on record.

7. It is an admitted fact that as per the FMB sketch of Nagalapuram Village, the disputed pathway runs in the middle of the land in S.F.Nos. 243/3, 252/4, 250/2, 254/2, 255/2 and 267/3, Kurinchimalai Forest. Further, as averred by the writ petitioner, the said pathway is clearly engraved in the FMB sketch of Nagalapuram Village and as per the same, the disputed pathway has been used as "Cart Track" for several decades by the petitioners and other villagers and further, it seems that the private land owners themselves had exchanged their lands for an alternative pathway in exchange for the FMB pathway.

8. In view of the foregoing observations and in view of the submission made by the learned Additional Government Pleader, this Court, without expressing any opinion on the merits of the case, is inclined to pass the following direction:-

the 1<sup>st</sup> respondent / the District Collector, Tiruchirapalli District, is directed to consider the 1<sup>st</sup> petitioner's representation dated 03.07.2020 and pass appropriate orders, by taking note of the FMB sketch of Nagalapuram Village, within a period of twelve weeks from the date of receipt of a copy of this order, after issuing notice to the parties concerned, including the 2<sup>nd</sup> respondent;

9. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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,  
Tiruchirapalli District.

2.The District Forest Officer,  
Tiruchirapallli District.

3.The Tahsildar,  
Thuraiyur Taluk, Thiruchirapalli District.

4.The Forest Ranger,  
Kurinji Malai Forests,  
Thuraiyur Taluk, Tiruchy District.

+1 CC to M/s.D. SELVANAYAGAM, Advocate ( SR-16037[F] dated  
07/09/2020 )

+1 CC to M/s.Special Govt.Pleader ( SR-16396[F] dated 09/09/2020 )

**W.P. (MD) No.10979 of 2020**  
**07.09.2020**

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SDS (03.11.2020) 4P-7C