



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.09.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.10658 of 2020

Kadambavanam

... Petitioner

Vs.

1. The District Collector,
Virudhunagar District,
Virudhunagar.
2. The District Urban Development Officer,
Virudhunagar, Virudhunagar District.
3. The Revenue Divisional Officer,
Kariyapatti, Virudhunagar District.
4. The Block Development Officer,
Kariyapatti, Virudhunagar District.
5. The Panchayat President,
Melakallangulam,
Virudhunagar District.

6. Sethupathi

... Respondents

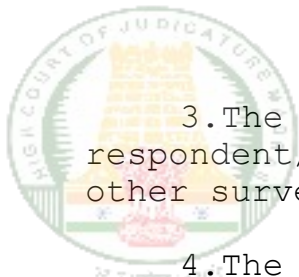
Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from laying road in Survey Nos.46/1A, 46/1B, 46/1C, 46/1D, 46/1E, 46/1F, 46/1G, 46/1H, 46/1I, 46/1J and 46/1K situated at Melakallangulam, Kariapatti Taluk, Virudhunagar District.

For Petitioner : Mr.M.Thangapandian
For Respondents : Mr.S.Angappan,
Government Advocate for R1 to R4
Mr.M.Kannan for R5

O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned standing counsel appearing for the fifth respondent/panchayat.

2.The case of the petitioner is that the respondents are attempting to lay road across the petition mentioned land which according to the petitioner are patta lands. This Court ordered notice and called upon to get instructions.



3.The learned standing counsel appearing for the fifth respondent/panchayat submitted that except Survey No.46/1F, the other survey numbers are patta lands.

4.The learned counsel for the fifth respondent drew my attention to the title document dated 25.04.1985, from which the petitioner traces his title. A mere look at the schedule of the said sale deed indicates that what was purchased in Survey No.46/1 was only four acres of land. The schedule itself clearly mentions that in the said survey number a road measuring 35 cents runs across. The learned counsel for the fifth respondent/panchayat specifically alleges that suppressing this, the petitioner's family managed to obtain patta by subdividing S.No.46/1. It is true that S.No.46/1F mentions that it stands in the name of sons of Karuppan.

5.But then, I cannot ignore the clear reference in the sale deed that a road measuring 35 cents of land runs across in S.No.46/1.

6.The learned counsel for the fifth respondent/panchayat also draws my attention to the FMB sketch enclosed at page No.28 of the typed set of papers. The road has been shown in dotted lines and it does run across S.No.46/1F.

7.It is also stated that the road is being used regularly for public transport all these years. The learned counsel for the fifth respondent would lament that the petitioner is now obstructing the free movement of the buses.

8.Since disputed facts have been raised in this writ petition, I am not in a position to go into the same. If the petitioner could have convincingly established that S.No.46/1F also is a patta land then definitely I would have granted relief. But the same has been strongly disputed and contested and I find considerable force in the objection raised by the learned counsel appearing for the fifth respondent/panchayat. Since disputed facts cannot be resolved in writ jurisdiction, I find no ground to grant relief. The writ petition stands dismissed. No costs.

Sd/-

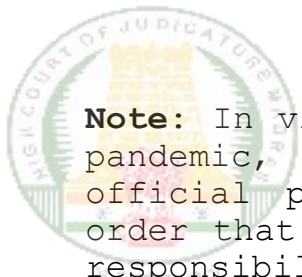
Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Ias



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.

WEB COPY

To:

1. The District Collector,
Virudhunagar District,
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4. The Block Development Officer,
Kariyapatti,
Virudhunagar District.

+1 CC to Mr.M.KANNAN, Advocate (SR-16586[F] dated 11/09/2020)
+1 CC to the Spl GP (SR-16657[F] dated 11/09/2020)

W.P. (MD) No.10658 of 2020
10.09.2020

CS(18.09.2020) 3P 7C