



WEB COPY

W.P.(MD)No.14581 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.14581 of 2020

and

W.M.P (MD)No.12226 of 2020

Marimuthu

... Petitioner

Vs

1.The District Collector
Office of the District Collector,
Pudukottai District.

2.The Tahsildar
Office of the Tahsildar,
Kulathur Taluk,
Office at Keeranoor,
Pudukottai District.

3.The Assistant Director
Grama Panchayat,
Pudukottai District.

4.The Block Development Officer
Union Office,
Viralimalai,
Pudukottai District.

5.Pachamuthu

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the 1st to 4th respondents herein from in any manner laying any pathway in respect of the property comprised in S.No.331/27, situated at Lakshmanapatti Village, Kulathur Taluk, Pudukottai District, having Patta No.180, by considering the representation of the petitioner, dated 24.07.2020.

For Petitioner : Mr.S.Sathya Chidambaram

For Respondents 1 & 2 : Mrs.V.P.M.Vaishnavi
Government Advocate

For Respondents 3 & 4 : Mr.M.Rajarajan
Additional Government Pleader



ORDER

This writ petition has been filed for a Mandamus to forbear the respondents 1 to 4 from in any manner laying any pathway in the property comprised in Survey No.331/27, situated at Lakshmanapatti Village, Kulathur Taluk, Pudukottai District.

2. Heard Mr.S.Sathya Chidambaram, learned Counsel appearing for the petitioner, Mrs.V.P.M.Vaishnavi, learned Government Advocate appearing for the respondents 1 and 2 and Mr.M.Rajarajan learned Additional Government Pleader appearing for the respondents 3 and 4.

3. By consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

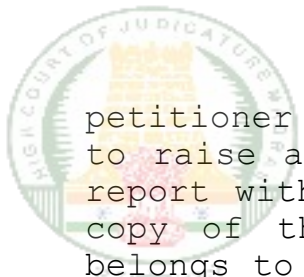
4.It is the case of the petitioner that he is the absolute owner of the aforementioned property and having Patta No.180 standing in his name. According to him, on the instigation of the fifth respondent, who is the President of the Panchayat, a road is being laid inside the petitioner's land. The petitioner has also filed a suit against the fifth respondent in O.S.No.28 of 2020 before the District Munsif Court, Keeranur, Pudukottai District, seeking for permanent injunction restraining the fifth respondent from interfering with his peaceful possession and enjoyment of the aforementioned property. In such circumstances, he has filed this writ petition to forbear the respondents 1 to 4 from laying road inside the petitioner's property.

5. Mr.M.Rajarajan learned Additional Government Pleader appearing for the respondents 3 and 4 would submit that as on date, no road is being put up in the property which is claimed by the petitioner. The learned Additional Government Pleader, on instructions, would further submit that the respondents 3 and 4 are prepared to conduct a Survey and submit a Survey Report and if it is found that the subject property belongs to the petitioner, they will not lay any pathway in the said property.

6. He would also submit that if the property is vested with the Panchayat, they should not be prevented from laying a pathway in the subject property.

7. This Court, finds force in the submissions made by the learned Additional Government Pleader. The petitioner has also not raised any serious objection to the submissions made by the learned Additional Government Pleader.

8. In the result, this Court directs the second respondent to conduct a Survey of the subject property, after giving due notice to the petitioner and after considering the Patta No.180 for the same property which is allegedly standing in the name of the



petitioner and after giving sufficient opportunity to the petitioner to raise all contentions with supporting documents submit a survey report within a period of four weeks from the date of receipt of a copy of this order. If it is found that the subject property belongs to the petitioner, the respondents are permanently enjoined from laying the road in the property comprised in Survey No.331/27 situated at Lakshmanapatti Village, Kulathur Taluk, Pudukottai District but on the other hand, if it is found that the subject property belongs to the Government, it is made clear that there is no bar for the respondents 1 to 4 to lay the pathway in the subject property.

9. However, it is made clear that till the final Survey Report is submitted, as directed by this Court, there shall be an order of interim injunction as prayed for in W.M.P.(MD)No.12226 of 2020.

10. With the aforesaid directions, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is ordered accordingly.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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
Office of the District Collector,
Pudukottai District.
2. The Tahsildar
Office of the Tahsildar,
Kulathur Taluk,
Office at Keeranoor,
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3. The Assistant Director
Grama Panchayat,
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4. The Block Development Officer
Union Office,
Viralimalai,
Pudukottai District.

+1 CC to the SPL GP (SR-20552[F] dated 19/10/2020)

W.P. (MD) No.14581 of 2020
16.10.2020

CK (CO)
CS (04.11.2020) 4P 6C