



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.16341 of 2020

and

W.M.P. (MD) .No.13651 of 2020

(Through the Video Conferencing)

Palaniyappan

... Petitioner

Vs

1. The District Collector,
Trichy District, Trichy.
2. The Revenue Divisional Officer,
Musiri, Trichy District.
3. The Tahsildar,
Musiri Taluk Office,
Musiri, Trichy District.
4. The Block Development Officer,
T.Pettai Union Office,
T.Pettai, Trichy District.
5. The President,
Anjalam Village Panchayat,
Anjalam, Musiri Taluk,
Trichy District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents from laying road on the patta land in SF.No.720/1 situated at Anjalam Revenue Village, Musiri Taluk, Trichy District, without following any due process of law.

For Petitioner : Mr.K.Arunraj

For Respondents : Mr.A.Muthukaruppan
Additional Government Pleader

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to forbear the respondents from laying road on the petitioner's patta land in S.F.No.720/1, situated at Anjalam Revenue Village, Musiri Taluk, Trichy District.



2. Heard Mr.K.Arunraj, learned counsel for the petitioner and Mr.A.Muthukaruppan, learned Additional Government Pleader for the respondents.

3. On the last hearing date i.e., on 02.12.2020, the learned Additional Government Pleader for the respondents, on instructions, would submit before this Court that, the respondents are laying an alternate road for the public to reach the graveyard and therefore, the respondents will use the petitioner's property only for a period of three months and after laying the alternate road, the respondents will hand over the vacant possession of the said portion back to the petitioner.

4. Today, the third respondent has filed a counter affidavit, wherein, in Paragraph No.7, he has stated as follows:-

"7.It is submitted that the petitioner having property in SF.No.720/1 to the extent of 1.35.50 hectares situated at Anjalam, Trichy District. In the SF.No.720/1 on the northern side of the land the public used as a pathway to the cremation ground for long time and all of sudden the petitioner prevented the public to use the pathway and filed a suit in O.S.No,134 of 2020, on the file of the District Munsif, Musiri for permanent injunction and that is pending. The public made representation to the authority and on the representations the peace committee meeting was conducted by the third respondent on 14.10.2020 and the petitioner and the Village people participated in the Peace Committee Meeting and agreed that the property in SF.No.720/1 belongs to the petitioner and there is a Government poramboke on the northern side of the S.F.No.719 situated and the surface of the land is not in position to use as a pathway and that the respondents will form a road in SF.No.719 for the public purpose. Till that time the public can use the pathway belongs to the petitioner as before. The above said resolution accepted by the petitioner and now filed this petition with ulterior motive. It is further submitted that it is the only pathway used for the cremation ground if it is prevented by the petitioner and will put to very hardship to the general public."

5. As seen from the aforementioned paragraph, the respondents have admitted that the subject property belongs to the petitioner. However, they have stated that for the purpose of laying the alternate road they require the petitioner's property for access. But, they have not stated how many months time is required for giving vacant possession of the subject property to the petitioner.



6. Mr.A.Muthukaruppan, learned Additional Government Pleader for the respondents, on instructions would submit that, within six months time, the respondents will hand over the property, which is the subject matter of this Writ Petition, back to the petitioner after laying the alternate road to reach the graveyard.

WEB COPY

7. The learned counsel for the petitioner is also satisfied with the said submissions of the learned Additional Government Pleader.

8. After recording the statement of the third respondent made in paragraph No.7 of their counter affidavit, which is extracted above and after hearing the submissions of the learned Additional Government Pleader for the respondents, this Court directs the respondents to hand over the vacant possession of the petitioner's property which is subject matter of this Writ Petition, back to the petitioner within a period of six months from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg

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,
Trichy District,
Trichy.
2. The Revenue Divisional Officer,
Musiri, Trichy District.
3. The Tahsildar,
Musiri Taluk Office,
Musiri, Trichy District.



4. The Block Development Officer,
T.Pettai Union Office,
T.Pettai, Trichy District.

5. The President,
Anjalam Village Panchayat,
Anjalam, Musiri Taluk,
Trichy District.

+1cc to the SPL GP SR.No.26055.

+1cc to Mr.K.Arun Raj, Advocate, SR.No.26119.

Order made in
W.P. (MD) No.16341 of 2020
Dated :
16.12.2020

SRK(CO)
CS(06.01.2021) 4P 8C