



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 10.01.2020
CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.16150 of 2015
and M.P.(MD).No.1 of 2015

Jeganathan

.. Petitioner

Vs.

1.The District Collector,
Pudukkottai District,
Pudukkottai.

2.The Tahsildar,
Aranthangi,
Aranthangi Post & Taluk,
Pudukkottai District.

3.The Panchayat President,
Thanthani Village Panchayat,
Thanthani Post,
Aranthangi Taluk,
Pudukkottai District.

4.Karuppaiah

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, forbearing the respondents 2 and 3 to form any road or pathway in Old Survey No.101/2, New Survey No.101/2B in Thevarpatti Kudiyeri, Thanthani Revenue Village, Aranthangi Taluk.

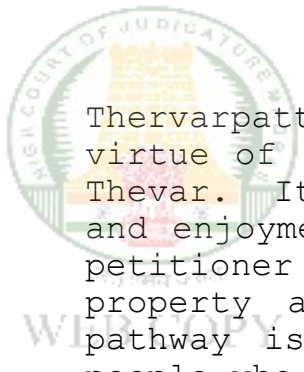
For Petitioner : Mr.K.Baalasundharam

For Respondents : Mr.A.Thiyagarajan for R1 and R2
Government Advocate
Mr.J.Gunaseela Muthiah for R3
Mr.N.Balakrishnan for R4

ORDER

This writ petition has been filed for issuance of Writ of Mandamus, forbearing the respondents 2 and 3 to form any road or pathway in Old Survey No. 101/2, New Survey No.101/2B, in Thevarpatti Kudiyeri, Thanthani Revenue Village, Aranthangi Taluk.

2.It is the case of the petitioner that he purchased an extent of 55 ½ cents of land in old 101/2, New Survey No.101/2B in

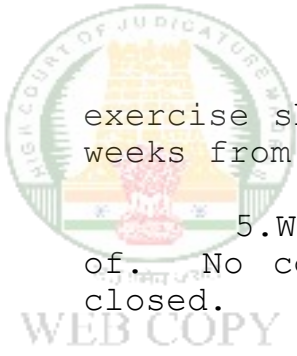


Thervarpatti, Kudiyeri, Thanthani Village, Aranthangi Taluk, by virtue of registered sale deed, of the year 1971 from one Ponnaiah Thevar. It is stated that the petitioner is in exclusive possession and enjoyment of property after the purchase. It is stated by the petitioner that on 25.08.2015, the respondents 2 and 3 came to his property and demarcated as pathway. It is contended that the pathway is artificially created to suit the convenience of some people who have vested interested with the help of respondents 2 and 3 in the property of petitioner. It is in the said circumstances, the petitioner appears to have approached the first respondent requesting him to take appropriate action for unlawful markings in his property for the purpose of forming a road. Since the respondents have not responded to his representation, the petitioner has come forward with the above writ petition.

3.The learned Government Advocate on instructions submitted that the contention of the petitioner in the writ petition are false. It is stated by the respondents that a pathway runs across the land in the disputed property and that the said pathway is in enjoyment of public. It is further stated that the pathway is used by the public. The learned Government Advocate has not stated any thing regarding the title of the petitioner. It is not known as to how and on what basis the learned Government Advocate says that a portion of the property is being enjoyed as a pathway. No revenue record is also produced by the respondent. However, the contention of the petitioner that the disputed property belonged to the petitioner is on the basis of sale deed of the year 1971. If a property is enjoyed by the neighbours to have access, it does not mean that the original owner is preventing from exercising his right of ownership as such right to use a land belonged to another as a pathway is recognized as a right of easement.

4.However, this Court do not express any opinion on the merits of the present case. If the disputed property is being enjoyed by the public as a road, the same can be considered by the Tahsildar based on Revenue records and the enquiry that may be conducted by him after examining the petitioner and other villagers or public who are using the property for their free ingress and egress. The Tahsildar is directed to hold an enquiry based on revenue records and documents as to the existence of pathway as per revenue records in any portion of the property in old S.No. 101/2, corresponding New Survey No.101/2B in Thevarpatti Village, Thanthani Revenue Village, Aranthangi Taluk and may pass appropriate orders. If the finding of the Tahsildar after full fledged enquiry reveals that the disputed property is a pathway, then the petitioner may approach the civil court in case the petitioner wants to establish his exclusive title and enjoyment. If the second respondent find that the property is part of petitioner's patta land and that it is not being used as a pathway as per revenue records, the second respondent may pass appropriate order with liberty to approach the

<https://services.e-courts.gov.in/services/> any one who is aggrieved by such order. This



exercise shall be undertaken by the Tahsildar within a period of 12 weeks from the date of receipt of a copy of this order.

5. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

TM

To

1. The District Collector,
Pudukkottai District,
Pudukkottai.

2. The Tahsildar,
Aranthangi,
Aranthangi Post & Taluk,
Pudukkottai District.

+1 CC to Mr.K.BAALASUNDHARAM, Advocate (SR-1596[F] dated
13/01/2020)

W.P.(MD).No.16150 of 2015
10.01.2020

MK (20.02.2020) 3P 4C