



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD)No.16159 of 2015

and

M.P. (MD) .No.1 of 2015

WEB COPY

- 1.Avudai Thevar (Died)
- 2.Rajalakshmi
- 3.Chandra
- 4.Vijaya
- 5.Ponnaiah
- 6.Vasugi
- 7.Jeya
- 8.Anbalagan
- 9.Sumathi

... Petitioners

(Petitioners 2 to 9 are substituted as per order of this Court dated 24.01.2020 in W.M.P.(MD). No.785 of 2020 in W.P.(MD).No.16159 of 2015)

Vs.

- 1.The District Collector,
Pudukottai District, Pudukottai.
- 2.The Tahsildar,
Aranthangi, Aranthangi Post & Taluk,
Pudukottai District.
- 3.The Panchayat President,
Thanthani Village Panchayat,
Thanthani Post, Aranthangi Taluk,
Pudukottai District.
- 4.Karuppaiah

... Respondents

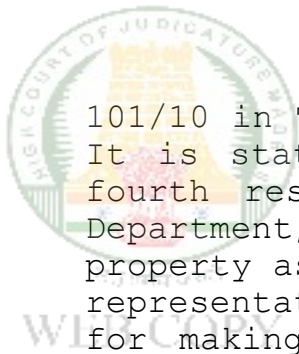
Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondents 2 and 3 to form any road or pathway in Survey No.101/8B, 101/10 in Thevarpatti Kudiyeri, Thanthani Revenue Village, Aranthangi Taluk.

For Petitioners	:	Mr.K.Baalasundharam
For R-1 to R-3	:	Mr.A.Thiagarajan Government Advocate
For R-4	:	Mr.S.Balakrishnan

O R D E R

This writ petition has been filed for issuance of Writ of Mandamus, forbearing the respondents 2 and 3 from forming any road or pathway in Survey Nos.101/8B, 101/10 in Thevarpatti Kudiyeri, Thanthani Revenue Village, Aranthangi Taluk.

2. It is case of the petitioners that the first petitioner is in possession and enjoyment of the land in Survey Nos.101/8B,
<https://hcservices.ecourts.gov.in/hcservices/>



101/10 in Thevarpatti Kudiyeri, Thanthani Village, Aranthangi Taluk. It is stated that the respondents 2 and 3 with the help of the fourth respondent, who is working as a Surveyor in the Revenue Department, have demarcated the portion of the first petitioner's property as a pathway. Thereafter, the first petitioner submitted a representation to the first respondent on 29.08.2015 to take action for making unlawful markings in his property for the purpose of forming a road. Since the respondents have not responded to the first petitioner's representation, the petitioners have come forward with the above Writ Petition.

3. The learned Government Advocate on instructions submitted that the contentions of the petitioners 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 the 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 first 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 respondents. However, the contention of the petitioners that the disputed property belonged to the first petitioner is on the basis of a sale deed. If a property is enjoyed by the neighbors to have access, it does not mean that the original owner is prevented from exercising his right of ownership as such right to use a land belonged to another as a pathway is recognized as an 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 documents and revenue records as to the existence of any pathway in any portion of the property in Survey Nos.101/8B, 101/10 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 petitioners may approach the civil court in case the petitioners want to establish their exclusive title and enjoyment. If the second respondent finds that the property is the first petitioner's patta land and that it is not being used as a pathway as per revenue records, the second respondent may pass appropriate orders with liberty to approach the civil court to 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 directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

WEB COPY

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Tsg

To

1.The District Collector,
Pudukottai District, Pudukottai.

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

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

+1 CC to M/s.N.BALAKRISHNAN, Advocate (SR-3333[F]

Order made in

W.P. (MD)No.16159 of 2015

Dated: **24.01.2020**

SMA/12/02/2020/3P/5C