



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2020

CORAM

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

W.P. (MD) No.18476 of 2015

and

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

S.Viswanathan

... Petitioner

vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Tahsildar,
Thirupathur Taluk,
Sivagangai District.

3.The President,
Mahibalanpatti Village Panchayat,
Thirupathur Taluk,
Sivagangai District.

4.Somasundaram,
President,
Mahibalanpatti Village Panchayat,
Thirupathur Taluk,
Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents 1 and 2 to forbear the third respondent or his subordinates from in any way laying a Panchayat Road in the land belonging to the petitioner in S.No.51/3, Mahibalanpatti Village, Thirupathur Taluk, Sivagangai District without acquiring the said lands under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner : Mr.M.M.Mahaboob Athiff
for M/s.Ajmal Associates

For Respondents : Mr.A.Muthu Karuppan

R1 to R3

Additional Government Pleader



O R D E R

This Writ Petition is filed to direct the respondents 1 and 2 to forbear the third respondent or his subordinates from in any way laying a Panchayat Road in the land belongs to the petitioner in S.No.51/3, Mahibalanpatti Village, Thirupathur Taluk, Sivagangai District without acquiring the said land under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2.It is stated by the petitioner that the petitioner is a permanent resident of Mahibalanpatti Village and that he is an Agriculturist carrying on agricultural activities. It is the case of the petitioner that he owns an extent of 0.75.5 Hectares in S.No.51/3 in that village and that the land, is in his exclusive possession and enjoyment. The petitioner also states that he has obtained patta in respect of the property, vide patta No.264. The grievance of the petitioner is that the third respondent with a mala fide intention to harass the petitioner, visited his agricultural land on 02.10.2015 and directed the petitioner to remove the standing crops, so that Panchayat road can be laid in the said land. In view of the threat posed by the third respondent, the petitioner submitted a representation to respondents 1 and 2 to prevent any unlawful activities by the third respondent.

3.The fourth respondent is impleaded in his individual capacity, who was the then Panchayat President. Apprehending that the fourth respondent may take steps to lay road through panchayat, the petitioner has approached this Court.

4.No counter affidavit is filed by the third respondent. Hence, this Court presume that the petitioner's contention with regard to his ownership is not in dispute. As contended by the petitioner that the petitioner's land cannot be taken by local body or the Government without due process of law. The petitioner has produced before this Court, the patta granted in favour of the petitioner for the land in S.No.51/3 measuring to an extent of 0.75.5. Hectares in Mahibalanpatti. It is well settled that no one can be deprived of his right to a property otherwise than by due process, which is guaranteed under Article 300A of Constitution of India. In that view of the matter, this Court is inclined to issue the following directions:

4.1.The third respondent is directed not to interfere with the peaceful possession and enjoyment of the petitioner in respect of the land in S.No.51/3 measuring to an extent of 0.75.5 Hectares in Mahibalanpatti, otherwise than by due process of law.



5. With the above directions, the Writ Petition is disposed.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020
Sub Assistant Registrar (CS)

To

1. The District Collector,
Sivagangai District, Sivagangai.

2. The Tahsildar,
Thirupathur Taluk, Sivagangai District.

3. The President,
Mahibalanpatti Village Panchayat,
Thirupathur Taluk,
Sivagangai District.

+1 CC to M/s. AJMAL ASSOCIATES, Advocate (SR-4370[F] dated
03/02/2020)

+1 CC to M/s. Special Govt. Pleader (SR-4418[F] dated 03/02/2020)

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31.01.2020

cmr

SDS (12.02.2020) 3P-6C