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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.1697 of 2013

and

M.P.No.2 of 2013

Chakravarthy

... Petitioner

Vs.

1. The District Collector,
Ariyalur District,
Ariyalur.
2. The Revenue Divisional Officer,
Udayarpalayam Taluk,
Ariyalur District.
3. The Tahsildar,
Udayarpalayam Taluk,
Jayamkondan,
Ariyalur District.
4. The President,
Ayyapan Niackenpettai Panchayat,
Meensuriti via.,
Udayarpalayam Taluk,
Ariyalur District.
[R-4 impleaded vide order dated 06.09.2021 made in
M.P.No.3/2013 in W.P.No.1697 of 2013]

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to the order passed by the first respondent in his proceedings Na.Ka.No.AA-780/2012 dated 27.01.2012 and quash the same and thereby consequently direct the respondents herein to remove the sand put up in the patta land of the petitioner situated in S.No.118/20, Mangudi Village, Udayarpalayam Taluk, Ariyalur District.

For Petitioner : Mr.T.Muruganantham



For Respondents : Mr.M.R.Gokul Krishnan
Government Advocate
(for R-1 to R-3)
: No Appearance (for R-4)

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O R D E R

This petition has been filed seeking to quash the proceedings in Na.Ka.No.AA-780/2012 dated 27.01.2012 on the file of the first respondent and consequently direct the respondents herein to remove the sand put up in the patta land of the petitioner situated in S.No.118/20, Mangudi Village, Udayarpalayam Taluk, Ariyalur District.

2. The case of the petitioner is that he owned the agricultural land to an extent of 31 cents comprised in S.No.118/20, Mangudi Village, Udayarpalayam Taluk, Ariyalur District. The respondents had taken sand from the neighbouring lake and proposed to lay road at the length of 330 meters and width 8 feet and thereby, encroached 120 sq.ft of the petitioner's land and they had put up the lake sand at the width of 8 feet. Therefore, the petitioner sent a representation dated 01.11.2011 to the first respondent and the same was not considered and as such, he was constrained to file a Writ Petition before this Court in W.P.No.27048 of 2011. By an order dated 01.12.2011, this Court directed the first respondent to consider the petitioner's representation within a period of two weeks. It was rejected by the impugned order in this Writ Petition.

3. The learned counsel for the petitioner submitted that the impugned order is passed without any notice to the petitioner and without conducting any enquiry. Therefore, it is clear violation of principles of natural justice. Even according to the respondents, the subject land is a patta land and a road is existing there and as such, without following due process of law, they simply encroached the patta land and proposed to lay a road.

4. On a perusal of the records, it reveals that the petitioner is the owner of the land comprised in S.No.118 of 2020. Even according to the respondents, it is patta land and there exists a road and this road is used by all general public to reach their respective patta land. However, if the respondents propose to expand the existing road, they have to follow due process of law before laying the road on the patta land. That apart, as directed by this Court, the first respondent, on receipt of the reports from the Revenue Officials, passed the impugned order. There are no records to show that the petitioner was served with notice and enquiry was



conducted. Therefore, it is clear violation of principles of natural justice and on this sole ground alone, the impugned order cannot be sustained as against the petitioner.

5. In view of the above discussion, the impugned order dated 27.01.2012 is set aside. Accordingly this Writ Petition is allowed. If at all, the respondents put up or expand the existing road on the patta land, the respondents are directed to follow due process of law and proceed further. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Ariyalur District,
Ariyalur.
2. The Revenue Divisional Officer,
Udayarpalayam Taluk,
Ariyalur District.
3. The Tahsildar,
Udayarpalayam Taluk,
Jayamkondan,
Ariyalur District.
4. The President,
Ayyapan Niackenpettai Panchayat,
Meensuriti via.,
Udayarpalayam Taluk,
Ariyalur District.

+1CC to Mr.T.Muruganantham, Advocate, Sr.No.45268
+1CC to Mr.K.Balu, Advocate, Sr.No.44966
+1CC to Mr.Government Pleader, Sr.No.45180

W.P.No.1697 of 2013

PM (CO)
K.RK. (12.10.2021)