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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No. of 1851 of 2015

and

W.M.P. No. 1 of 2015

1. A.Velliyangiri
2. A.Angappa Gounder
3. T.M.Palanisamy
4. T.M.Subramaniam
5. T.M.Avinachiappan
6. M.Rajendran
7. P.Sivakumar
8. P.Senthil Kumar
9. M.Amarapathy
- 10 .R.Koushika

... Petitioners

-VS-

1. The State of Tamil Nadu,
Represented by its Secretary,
Revenue Department,
Fort St.George, Chennai - 600 009.
2. The District Collector,
Tiruppur District,
Tiruppur.
3. The Tahsildar,
Avinashi Taluk,
Avinashi, Tiruppur District.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, paying to issue of Writ of Mandamus directing the respondents herein not to obliterate the existing Thirumurugan Poondi-Rakkiyalalayam road comprised in Survey No. 488/1 situated at No.54, Rakkiyalalayam Village, Avinashi Taluk,



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Tiruppur District and to maintain the same as a public road.

For Petitioners : Mr.V.P.Sengottuvel
For Respondents : Mr.C.Kathiravan,
Government Advocate

O R D E R

The writ on hand is filed to direct the respondents not to obliterate the existing Thirumurugan Poondi-Rakkiyapalayam road comprised in Survey No. 488/1 situated at No.54, Rakkiyapalayam Village, Avinashi Taluk, Tiruppur District and to maintain the same as a public road.

2. The petitioners state that the land comprised in Survey No. 488/1 situated at No.54, Rakkiyapalayam Village, Avinashi Taluk, Tiruppur District is originally a cart track from time immemorial leading from Thirumurugan Poondi to Raakiyapalayam. The said cart track partly came to be laid as a Black Top Road by the Thirumurugan Poondi Town Panchayat. The said road from Thirumurugan Poondi to Raakiyapalayam is not only in existence over several decades but also is being used by all the villagers of Rakkiyapalayam including the petitioners who own lands on the immediate Northern side of the said road. The Southern side of the said road is a river called "Nallar" comprised in Survey No. 450 and the said land is classified in the revenue records as River Poramboke. During the rainy season, water flow in the Nallar River. The Nallar river will flow from West to East confluence with Noyal River and in between there are several check dams used for storage of water for irrigation and drinking purpose.

3. The grievances of the writ petitioners are that the respondents granted patta in favour of the poor landless people of that locality.

4. Raising an objection in respect of the patta granted in favour of the poor landless people of that locality, the petitioners contended that abutting the road such patta is granted. Therefore, the usage of the public road is being affected. Thus, the patta granted in favour of such landless people is to be cancelled and the public road must be maintained for the purpose of public usage for all purposes.



5. The sketch produced by the authorities would also show that the patta granted in respect of the land is falling on the road. It appears as if that the free usage of the public road is getting affected. In other words, seeing of the sketch would reveal that the public road has been allotted for the landless poor people of that locality affects the right of the public in the usage of the road.

6. In view of the said doubt raised both by the learned counsel for the petitioners as well as this Court, a direction was issued to the Tahsildar, Avinashi Taluk to conduct a field inspection and she has submitted a report in respect of the sketch as well as the present status.

7. Mrs.K.P.Raghavi, Tahsildar, Taluk Office, Avinashi Taluk, Tiruppur District is present before this Court along with the files. The said Tahsildar informed this court that she has conducted the field inspection and ascertained the present status of the road as well as its usage.

8. The Tahsildar made a submission that the road ends with the agricultural land and there is a "Kootupathai" and accordingly persons who are using the road has to take a turn in 12 feet road and there is no straight access as per the revenue records. The road ends and at the end, there is a 12 feet road which is called as "Kootupathai" and that is being utilized as cart track and for other agricultural purposes.

9. As far as the grant of patta to the landless poor people of that locality is concerned, the Tahsildar explained by stating that the road is widened for usage by the people of that locality and as of now, the people of that locality are using the said road which is measured as 22.4 feet. Thus, the road in question is expanded by way of usage by the people of that locality and such usage has not been objected by any of the people of that locality and at present, they are using 22.4 feet road for the cart truck and for agricultural purposes as the said road ends with the agricultural land. There is no public transport services in that road. There is no other public usage except by the persons who are all having agricultural lands in that locality.

10. It is seen that there is no public transport system being run in that road and that the road is utilized by the



common people of that area for other purposes and it is actually used for the limited purposes by the Agriculturalists of that locality for transporting the agricultural products and other related goods. This being the factual position ascertained during the inspection of the Tahsildar, Avinashi Taluk and a report is filed before this Court. This court is of an opinion that the rights of the petitioners are not affected and they are now using the land which is about 22.4 feet width and therefore, the free access of the road is not denied. Under these circumstances, it is unnecessary to disturb the patta granted in favour of the landless poor people for their benefits by the Government under a scheme.

11. This being the factum, the relief as sought for in the present Writ Petition deserves no merits consideration. Therefore, the Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

vji / mka

To

1. The Secretary,
Revenue Department,
Fort St.George, Chennai - 600 009.
2. The District Collector,
Tiruppur District, Tiruppur.
3. The Tahsildar,
Avinashi Taluk,
Avinashi, Tiruppur District.

+1cc to Mr.V.P.Sengottuvel, Advocate, S.R.No.50308

+1cc to the Government Pleader, S.R.No.50553

W.P. No. of 1851 of 2015
and

W.M.P. No. 1 of 2015

PMK(CO)
SB(22/10/2021)