



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P.No.24127 of 2013
and
M.P.Nos.1 & 2 of 2013

G.Jayaprakash

...Petitioner

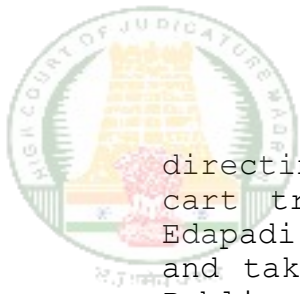
Vs.

1. The District Collector,
Salem District.
2. The District Revenue Officer,
District Revenue Office,
Salem.
3. The Revenue Divisional Officer,
Revenue Divisional Office,
Sankari Taluk, Salem District.
4. The Thasildar,
Edapadi Taluk,
Salem District.
5. The Surveyor,
Edapadi Taluk, Salem District.
6. The Superintendent of Police,
Salem District, Salem.
7. The Deputy Superintend of Police,
Sankari Taluk, Salem District.
8. The Inspector of Police,
Edapadi Police Station,
Edapadi Taluk, Salem District.
9. The Sub-Inspector of Police,
Poolampatti Police Station,
Edapadi Taluk, Salem District.

10.P.Sivamani

...Respondents

Prayer : Writ Petition filed under Article 226 of the
Constitution of India for issuance of a Writ of Mandamus



directing the respondents 1 to 9 herein to restore the public cart track in S.No.121/3C and 122/2A1 of Nedunkulam Village, Edapadi Taluk, Salem District as per the Nedunkulam Village FMB and take action against the 10th respondent for obliterating the Public cart track.

[Prayer amended vide order of this Court, dated 22.10.2021, in M.P.No.3 of 2013 in W.P.No.24127 of 2013]

For Petitioner : Mr.G.Arul Murugan

For R1 to R9 : Mr.K.M.D.Muhilan
Government Advocate

For R10 : Mr.S.Sathyaraj

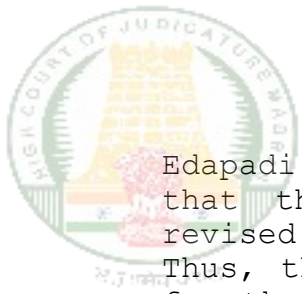
O R D E R
(Through Video Conferencing)

The relief sought for in the present writ petition is to direct the respondents 1 to 9 to restore the public cart track in S.No.121/3C and 122/2A1 of Nedunkulam Village, Edapadi Taluk, Salem District.

2.The facts in nutshell to be considered in the present writ petition are that the petitioner is the absolute owner of the lands measuring an extent of 5.10 acres in S.No.121/5 of Nedungulam Village, Edapadi Taluk, Salem District. The only way to have ingress and egress to the petitioner's land is through the 12 feet cart track proceeding from S.No.122/2A2 and passes through S.Nos.122/2A1 and 121/3C to reach the lands of the petitioner in S.No.121/5. It is contended that the cart track is the only way for the petitioner to reach his lands.

3.The District Collector, based on the representations, effected necessary alterations in the FMD and provided cart track for the public usage for the benefit of the public at large, including the petitioner. The Collector, in proceedings dated 27.02.1987, passed necessary orders and FMD also stood modified. The 10th respondent filed a civil suit in O.S.No.165 of 1993 questioning the FMD alterations and the said civil suit was dismissed by the District Munsif Court, Sangagiri. The petitioner also filed a civil suit to confirm the FMD sketch and to grant injunction and the civil suit filed by the petitioner was allowed and injunction was granted to maintain the cart track as per the revised FMD sketch ordered by the District Collector. The civil litigations reached finality and there was some dispute between the parties and criminal proceedings were also closed subsequently.

4.Beyond the dispute between the parties, the Tahsildar,



Edapadi Taluk, filed a counter affidavit, categorically stating that the subject property was earmarked as cart track and revised FMD sketch was approved by the District Collector. Thus, the said portion of the cart track must be made available for the public usage to reach the agricultural lands belongs to the petitioner and other persons. The Tahsildar has categorically admitted the fact that the petitioner is entitled to the usage of cart track based on the revised FMD sketch. In this regard, the contentions set out in Para No.6 of the counter affidavit are relevant and the same are extracted hereunder :

"6.As regards the averments set out in para 18 of the affidavit it is respectfully submitted to that the writ petitioner representing this issue to the respondent 6 to 9 right from the beginning of the dispute. The cart track which is running in S.No.121/3C and 121/2A1 demarcation already done in FMB. The Cart track in patta land is meant for the use of pattadars and also for adjoining pattadars. No pattadar can object anybody and prevent from using the cart track. The writ petitioner has obtained interim injunction in MP1/2013 in WP.24127/2013 dated 29.08.2013 from this Hon'ble Court. As of now the cart track which runs thro S.No.121/5 land which belongs to the writ petitioner is still in use. The tenth Respondents who is having lands in S.No.121/3C also using this cart track. But the cart track shown in S.no.122/2A1 in the land of tenth Respondent is not found in the ground. The tenth Respondent planted coconut trees and cultivating sugarcane in the disputed site. Hence, the cart track as per the details marked in FMB map should be restored which will give access to the writ petitioner to reach out his land in S.No. 121/5 and Respondent 10 who is also having land in S.No.121/3C and other nearby pattadars to reach river cauvery."

5.This Court has held that, once a particular portion of land is included as cart track in FMD sketch, then, such land earmarked as cart track belongs to the Government. The said property is derived based on the Revenue Standing Orders 26(15) and therefore, in the present case, the cart track has already been approved by the District Collector and incorporated in the FMD sketch. While so, the cart track became the land belonging to the Government and such cart track must be made available for the public usage to reach their respective lands. No person has got any right to create any obstruction, preventing the other land owners to reach their respective lands. The object of the Revenue Standing Orders is to ensure that every person is able to reach their own agricultural land or otherwise for the purpose of usage. In the present case, the creation of cart



track and approval of FMD sketch are confirmed both by the Civil Court as well as by the District Collector and such position is affirmed by the Tahsildar, Edapadi, in his counter affidavit.

6. This being the factum established, the petitioner is entitled for the relief as such sought for in the present writ petition. Accordingly, the respondents 1 to 4 are directed to restore the public cart track in S.No.121/3C and 122/2A1 of Nedunkulam Village, Edapadi Taluk, Salem District, and ensure that the cart track is put to use for public purposes and there is no obstruction in the cart track.

7. The learned counsel for the contesting respondent made a submission that the cart track was not available. However, it is made clear that, as per the FMD sketch, the authorities are bound to verify the extent of cart track and accordingly, make such cart track for the usage of public.

Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Salem District.
2. The District Revenue Officer,
District Revenue Office,
Salem.
3. The Revenue Divisional Officer,
Revenue Divisional Office,
Sankari Taluk,
Salem District.
4. The Thasildar,
Edapadi Taluk,
Salem District.
5. The Surveyor,
Edapadi Taluk,
Salem District.



6. The Superintendent of Police,
Salem District, Salem.

7. The Deputy Superintendent of Police,
Sankari Taluk, Salem District.

8. The Inspector of Police,
Edapadi Police Station,
Edapadi Taluk, Salem District.

9. The Sub-Inspector of Police,
Poolampatti Police Station,
Edapadi Taluk, Salem District.

+1cc to Mr.S.Sathyaraj, Advocate, S.R.No.54463

+1cc to Mr.G.Arul Murugan, Advocate, S.R.No.54403

+1cc to the Government Pleader, S.R.No.55115

W.P.No.24127 of 2013

SSD(CO)

RGA(01/12/2021)