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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No.8885 of 2018

V.Balasubramaniam

.. Petitioner

Vs

1.The District Collector,
Thiruvannamalai District,
Thiruvannamalai.

2.The Thasildar,
Kalasapakkam Taluk,
Kalasapakkam,
Thiruvannamalai District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the 2nd respondent records pertaining to the impugned order dated 10.11.2017 in Na.Ka. Aa.1/ 6500/ 2017 and quash the same as illegal and to direct the respondents 1 and 2 to take action on the representation of the petitioners dated 09.10.2017 and 25.10.2017 and enter the parts of the survey numbers 31, 28/2B2, 28/1C, 28/1E and 222/3F2, which form the cart road as public path way in the Village Accounts and Revenue records of the Arunagirimangalam Village in Thiruvannamalai District within a time stipulated by this Hon'ble Court.

For Petitioner : Ms. Naveena for M/s.Arulmozhi

For Respondents: Mrs. A.Madhumathi
Special Government Pleader

O R D E R

This writ petition is filed for issuing a writ of certiorarified mandamus to quash the impugned order passed by the second respondent dated 10.11.2017 and to direct the respondents 1 and 2 to take action on the representation of the petitioner regarding certain survey fields.



2. The case of the petitioner is that the petitioner is using a cart road in certain survey fields. It is also the case of the petitioner that the lands in Survey No. 31, 28/2B2, 28/1C, 28/1E and 222/3F2 are being used as pathway for more than 100 years without any break and that land is also shown as a pathway in FMB Sketch. It is the case of the petitioner that the petitioner along with few others were using the land as pathway and hence the petitioner submitted a representation on 09.10.2017, for entering the cart road in the revenue records. However, the said representation was turned down by the impugned order passed by the second respondent stating that the lands in which the petitioner seeks relief are private lands and that the same cannot be declared as cart road.

3. The petitioner claims certain rights which are attached to his own patta lands. The right which is claimed by the petitioner is a right of easement. The right of easement can be declared only by the Civil Court. Since the land through which the petitioner wants to have access is a patta land, the respondent is right in rejecting the representation of the petitioner. Therefore, the petitioner, in those circumstances, is not entitled to any relief before this Court. However, the petitioner can establish his right of easement by approaching the Civil Court. Once he obtains a decree from the Civil Court declaring his easementary right, his right cannot be interfered with by the Pattadhars.

4. With the liberty preserved to the petitioner to approach the Civil Court, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

bkn

To

1.The District Collector,
Thiruvannamalai District,
Thiruvannamalai.

2.The Thasildar,
Kalasapakkam Taluk,
Kalasapakkam,
Thiruvannamalai District.



+1cc to M/s.Arulmozhi, Advocate, S.R.No.18910
+1cc to the Government Pleader, S.R.No.19126

W.P. No. 8885 of 2018

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RLD(CO)
CB(14/07/2021)