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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.12398 of 2018
and W.M.P.No.14538 of 2018

K.R.Venkateshlu

... Petitioner

-Vs-

1. The District Collector,
District Collectorate,
Krishnagiri District.
2. The Tahsildar,
Taluk Office,
Shoolagiri,
Krishnagiri District.
3. The Block Development Officer,
Block Development Office,
Shoolagiri,
Krishnagiri District.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of the land measuring an extent of 54 cents in Survey No.77/5 of Shoolagiri Village and Taluk, Krishnagiri District under the guise of laying a road except by following the due process of law.

For Petitioner : Mr.V.Ayyapparaja

For R1 and R2 : Mr.Richardson Wilson
Government Advocate.

For R3 : No Appearance.

ORDER

This Writ Petition has been filed for the issuance of a Writ of Mandamus, forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of the



land measuring an extent of 54 cents in Survey No.77/5 of Shoolagiri Village and Taluk, Krishnagiri District under the guise of laying a road except by following the due process of law.

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2. Heard Mr.V.Ayyapparaja, learned counsel appearing for the petitioner, Mr.Richardson Wilson, learned Government Advocate appearing for the respondents 1 and 2 and there is no appearance for third respondent.

3. The land ad-measuring 0.22.0 hectares (54 cents) comprised in Survey No. 77/5 situated at Shoolagiri Village and Taluk, Krishnagiri District, was purchased by the petitioner by a registered sale deed dated 16.04.2007 vide Document No. 1662 of 2007 on the file of the Sub-Registrar, Shoolagiri. From the date of purchase, the petitioner and his co-owner one M.S.Pappaiah have been enjoying the subject property without any hindrance whatsoever. However, the Village Panchayat President and six other persons attempted to trespass into the subject property and the petitioner was constrained to file a suit for permanent injunction and mandatory injunction in O.S.No. 187 of 2007 on the file of the District Munsif Court, Hosur. It was decreed by the Judgment and Decree dated 31.07.2008. It is also confirmed in the appeal suit filed by the defendants in A.S.No.7 of 2007 on the file of the Sub-ordinate Judge, Hosur, by the Judgment and Decree dated 27.07.2015. Thereafter, there was no second appeal filed by any aggrieved persons. Without any notice and without any acquisition proceedings, the respondents started laying a road in the subject property which is classified as private patta land in the name of the petitioner. Therefore, the petitioner sent a detailed representation on 31.03.2018, requesting the respondents to lay a road, after issuance of requested notice and after passing necessary award for acquiring the land.

4. The second respondent filed a counter which reveals that the subject land comprised in Survey No. 77/5 ad-measuring 0.22.0 hectares situated at Shoolagiri Village and Taluk, Krishnagiri District stands registered in the name of the petitioner and one M.S.Pappaiah. The said land is in possession and enjoyment of the said persons for the past many years and it is a private patta land. In the said patta land, the road was formed by the third respondent and the general public are using this path or road for the past many years. Therefore, the respondents never formed any path or road for the general public.

5. Pending the writ petition, this Court directed the second respondent to inspect the subject land and file a detail report. Accordingly, the second respondent inspected the



is for upgradation of the road. It is on the basis of the order passed by the first respondent dated 13.02.2017 for renovation, it was enforced to renovate the road for the year 2016 to 2017 and the work has been allotted to rectify the same at the cost of Rs.16,17,000/- (Rupees sixteen lakhs and seventeen thousand only) from V.C.C. Road to Shoolagiri - Beigari Road via Vaaniyar street.

8. Therefore, admittedly, there was no acquisition proceedings and no notice was issued to the petitioner before laying the road. Though, the subject land was used by the general public as pathway to reach the Shoolagiri town, the duty of the respondents is to verify the revenue records before laying the road and before adding the road into account of Rural Development and Panchayat Raj.

9. As stated supra, now the subject land has been converted into road and maintained by the respondents by renovation for the year 2016 to 2017. Though the prayer sought for in this writ petition, now, become infructuous, the petitioner is entitled for adequate compensation for the land which was converted into road to an extent of 19 cents comprised in Survey No. 77/5 situated at Shoolagiri Village and Taluk, Krishnagiri District.

10. Accordingly, the first respondent is directed to award compensation to the petitioner under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, after conducting the award enquiry in the manner known to law within a period of twelve weeks from the date of receipt of a copy of this order.

11. With the above directions, this writ petition is disposed of. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
District Collectorate,
Krishnagiri District.



2. The Tahsildar,
Taluk Office,
Shoolagiri,
Krishnagiri District.

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3. The Block Development Officer,
Block Development Office,
Shoolagiri,
Krishnagiri District.

+lcc to Mr.R.Bharath Kumar, Advocate Sr.54868

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pm[co]
srg 17/11/2021