



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:01.09.2021

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
and

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A.No.2180 of 2021
and C.M.P.No.13768 of 2021

The President,
Eachempatti Village,
Kallakurichi Panchayat,
Senthamangalam Taluk,
Namakkal District.

...Appellant/Respondent No.4

Vs.

1. S. Chandrasekar ... Respondent No.1/Petitioner
2. The District Collector,
Office of the District Collector, Namakkal District.
3. The Assistant Director (Land Survey)
Office of the District Collector, Namakkal District.
4. The Block Development Officer,
Senthamangalam Taluk,
Namakkal District.

.. Respondents 2 to 4 / Respondents 1 to 3

Prayer : Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 29.04.2021 passed in W.P.No.17489 of 2020 and to allow the above writ appeal.

Prayer in WP 17489 of 2020 : Petition filed under Article 226 of the constitution of India, praying for issuance of a Writ of Mandamus, directing the first respondent to Third respondents to remove the concrete road laid in Survey No.23/3 by the fourth respondent in the petitioner's patta land in plot Nos.36, 48, 59 and 69 of Echampatti Village, Kallakurichi Panchayat, Senthamangalam Taluk, Namakkal District in view of the petitioner's petition No.2020/9005/09/803132/1006, dated.06.10.2020.



For Appellant : Mr.C.Prabakaran
For Respondent-1 : Mr.T.Balaji
For Respondents-2 to 4 : Mr.T.N.C.Kaushik
State Government Counsel

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JUDGMENT

[Judgment of Court was delivered by PUSHPA SATHYANARAYANA, J.]

The writ appeal is filed by the President of the Kallakurichi Panchayat, challenging the order dated 29.04.2021 passed in W.P.No.17489 of 2020.

2. The writ petitioner is the owner of the property situated in Survey No.23/3 in Echampatti Village, Senthamangalam Taluk to an extent of 3.50 acres, which he got it by way of family Partition Deed dated 11.06.2003. The prayer in the writ petition was to remove the concrete road laid in Survey No.23/3 by the appellant herein on the patta land in Plot Nos.36, 48, 59 and 69 of Echampatti Village, Kallakurichi Panchayat. The writ petitioner also seems to have sent a representation in this regard on 06.10.2020. Pending writ petition, an inspection was conducted by the Tahsildar, Senthamangalam and a report was also filed with respect to Survey No.23/3. The report of the Tahsildar also clearly indicates that there is an encroachment. Hence, considering the same, the writ Court had directed the respondent-authorities to remove the encroachment in S.No.23/3, as per law, on the basis of the report of the Tahsildar, Senthamangalam dated 04.01.2021, within a period of six (6) weeks from the date of receipt of a copy of that order. Aggrieved by the same, the above writ appeal is filed by the appellant/fourth respondent.

3. It is not denied that the land belongs to the first respondent herein. It is also not the case of the appellant that the road was laid on the first respondent's property with his consent or after giving him due communication. It is also not the case of the appellant that he had taken steps to acquire the said land for the purpose of laying road for the benefit of the people of the village. The land of the first respondent has just like been occupied and road has been laid.

4. The learned counsel for the first respondent also produced the proceedings of the Deputy Director, Rural Development, Namakkal in Na.Ka.No.2887/2021/C.ep/5, dated 13.08.2021, in which, a request has been made to the Block Development Officer, Senthamangalam to carry on the work of removal of encroachment, as per the order of the Writ Court and report to the office of the Block Development Officer.



5. As already the officials have taken action to remove the encroachments on the one hand, and on the other hand, the appellant/fourth respondent, pursuant to the order of the Writ Court, had filed the above writ appeal to stall its own proceedings, even without consulting the Block Development Officer or the other authorities. In such view of the matter, we do not find any error or defect in the order of the learned single judge, warranting interference by this court.

6. Accordingly, the Writ Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)
//True Copy//

Sub Assistant Registrar

srn/sp

To

1. The District Collector,
Office of the District Collector,
Namakkal District.
2. The Assistant Director (Land Survey)
Office of the District Collector,
Namakkal District.
3. The Block Development Officer,
Senthamangalam Taluk,
Namakkal District.

+1CC to Mr.W.Camyles Gandhi, Advocate, Sr.No.43768
+1CC to Mr.Government Pleader, Sr.No.44270

W.A.No.2180 of 2021
and
C.M.P.No.13768 of 2021

SRA (CO)
K.RK. (28.09.2021)