

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2021

CORAM : JUSTICE N.SESHASAYEE

W.P.No.18786 of 2020

R.Selvakumar

... Petitioner

Vs

1. The District Collector
Collectorate Office
Salem.
 2. The Tahsildar
Attur Taluk
Taluk Office, Attur
Salem District.
 3. The Block Development Officer
Attur Taluk.
- ... Respondents

[R3 suo moto impleaded Vide order dated 19.01.2021
in WP.No.18786/2020]

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, restraining the respondents from interfering with the peaceful possession and enjoyment of the agricultural lands comprised in S.No.293/1B2 and 293/2B, Ammampalayam Village, Attur Taluk, Salem District, without due process of law.

For Petitioner : Mr.M.Venkatakrisnan

For Respondents : Mr.E.Balamurugan
Special Government Pleader

ORDER

The present petition is filed to restrain the respondents from interfering with the peaceful possession and enjoyment of the agricultural lands of the petitioner comprised in S.No.293/1B2 and 293/2B, Ammampalayam Village, Attur Taluk, Salem District.

2. The case of the petitioner is that the third respondent under whose administrative control Ammampalayam Panchayat in Attur Taluk in Salem District, falls, has initiated efforts to lay a metaled road over the property of the petitioner. He submits that resort to Land Acquisition Act was not made, and his grievance is that peaceful possession and enjoyment of the agricultural lands comprised in Ammampalayam Village should not be disturbed since it is not sanctioned by any procedure laid within the meaning of Article 300A in the Constitution of India.

3.1 Mr.E.Balamurugan, learned Special Government Pleader (assisted by Mr.R.Venkataramanan, Block Development Officer, Block Development Office, Attur Taluk, Salem District, who is physically present to assist the Court) appears for the all respondents and merely brought to the notice of the Court that the averments of the petitioner in paragraph No.5 of the affidavit filed in support of this petition reads as :

"5. I most respectfully submit that the petitioner's predecessor in interest and other neighbouring land owners have let some portion of their patta land to be used as a common cart track to reach the Vadachennimalai Kattukottai Road from Sekkaramedu. The said arrangement is voluntary arrangement among the neighbouring land owners and in use for several decades. The Government or any other local body has no right to title or interest over the said cart tract."

3.2 Now, it is apparent that the petitioner's ancestors and the neighbours have given up their right for the benefit of the society. This, in law, would be termed as dedication for the public use. There is no need to engage in greater analysis of facts, as the petitioner's statement itself leads this Court to that conclusion.

4. The learned Special Government Pleader on instructions submitted that earlier there was an unmetalled road, and now only that is being converted into a metalled road. He added that no additional lands are attempted to be utilised other than the unmetalled road that already exists. The said statement is recorded.

5. At one level, the petitioner has to be appreciated for being fair to the Court when he made the statement in paragraph No.5 of the affidavit. At another level, he had lost that stretch of property by way of dedication for the public use, even at the time of his ancestors, and he literally has lost his claim for compensation. Both the stands cannot go together. If he still continues to believe that he has any title to the property, this may have to be independently challenged before the civil Court. This Court, therefore cannot restrain the

respondents from laying the road over that stretch of the petitioner's property, over which the unmetalled road was already existing.

7. The petition is accordingly dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ds

To:

1. The District Collector
Collectorate Office
Salem.
2. The Tahsildar
Attur Taluk
Taluk Office, Attur
Salem District.
3. The Block Development Officer
Attur Taluk.

+1cc to Mr.M.Venkatakrisnan, Advocate, S.R.No.17180.

PMK(CO)
CSR 09.04.2021

W.P.No.18786 of 2020

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