

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2021

CORAM

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

W.P. No.18876 of 2020

K.M. Murugesan

...

Petitioner

Vs

1. The District Collector,
Salem.

2. The Revenue Divisional Officer,
Sankari, Salem District.

3. The Thasildhar,
Edapadi, Salem District.

4. The Divisional Engineer,
State Highways Department,
Edapadi, Salem

....

Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to consider the representation of the petitioner dated 19.11.2020 and dispose the same.

For petitioner Mr. R. Nalliyappan

For respondents ... Mr.V. Anandhamurthy,
Addl. Gov. Pleader.

ORDER

This writ petition has been filed seeking a direction to consider the petitioner's representation dated, 19.11.2020, and pass orders.

2. According to the petitioner, the petitioner is the owner of the property in S.F.No.3/3B, Poolampatti village, Salem District. In the year 1930, in a re-survey a pathway was available. Subsequently, in the year 1984, during the UDR Scheme, 13 meter breadth of land has been classified as "Nilaviyal Padhai" and the petitioner is also taking steps to get the record corrected. In the meantime, the respondents are taking steps to lay a Thar road in the said land. Hence, he made a representation requesting the respondents to measure the land

and pay suitable compensation. But, the representation has not been considered so far. Hence, the present writ petition has been filed.

3. The 3rd respondent, Tahsildar filed a counter affidavit stating that in the Village "A" Register, the land has been shown as "Nilaviyal Padhai" and the land is located in Poolampatti - Mettur State Highways Road and a "Thar Road" is already available. The above said road being used by the public for more than 30 years. Since the land is classified as "Nilaviyal Padhai", no land acquisition proceedings needs to be initiated and the petitioner is not entitled for any compensation.

4. The learned counsel for the petitioner would submit that originally before UDR scheme, only a pathway is available. Subsequently, during the UDR scheme in the year 1984, land has been wrongly classified as "Nilaviyal Padhai ". The petitioner alone using the road and no public are using the same. In the above circumstances, if the respondents wants to lay any road, they have to initiate land acquisition proceedings and the petitioner is entitled for compensation. Hence, the petitioner has made a representation. The respondents may be directed to consider the same and pass suitable orders.

5. Per contra, the learned Additional Government Pleader appearing for the respondents would submit that admittedly in the Village "A" Register, the land is classified as "Nilaviyal Padhai" and the public are using the same for long period. In those circumstances, there is no necessity for the respondents to acquire the land and the petitioner is not entitled for any compensation.

6. I have considered the rival submissions and perused the materials available on records carefully.

7. Admittedly, as on date, the land has been classified as "Nilaviyal Padhai". Once the land is classified as "Nilaviyal Padhai", the land should be treated as a Government Land and the public are entitled to use the same. A Division Bench of this Court in in the case J. Jegadhish /vs/ Tahsildar, Modakurichi Taluk, Erode District & others in W.P.No.27153 of 2016, dated 25.01.2018 has held that any land which is classified as "Pathway" running through patta land should be treated as a Government land, which reads as follows :-

"13. A plain reading of the aforesaid provision shows that a plan marked pathway running in a patta land is a Government land and if any encroacher has interfered with the plan marked detail so as to close its entrance to and exit

from his lands, an eviction can be ordered. So, in view of the aforesaid Revenue Standing Order even though the subject matter of the cart track is running in a patta land, it should be treated as a Government land. Admittedly, the petitioner has blocked the said cart track by putting iron gate and compound wall and therefore, the first respondent has rightly passed the order to remove the said encroachment."

8. In the said circumstances, as the land is classified as "Nilaviyal Pathai", the petitioner cannot claim any right over the property or seek for any compensation. Hence, I find no merit in the writ petition and the writ petition is liable to be dismissed.

9. Accordingly, the Writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The District Collector,
Salem.
2. The Revenue Divisional Officer,
Sankari, Salem District.
3. The Thasildhar,
Edapadi, Salem District.
4. The Divisional Engineer,
State Highways Department,
Edapadi, Salem

+1cc to the Government Pleader, S.R.No. 25020

W.P. No.18876 of 2020

KJ(CO)
GN(08/07/2021)