



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.3357 of 2021

WEB COPY

A.Murugesan

... Petitioner

Vs.

1. The District Collector
Ramanathapuram District.
Sivagangai.
2. The Commissioner,
Ramanathapuram Municipality,
Ramanathapuram District.
3. The Thasildar,
Ramanathapuram Municipality,
Ramanathapuram District.
4. The Inspector of Police,
B1, Police Station,
Ramanathapuram,
Ramanathapuram District.

5.S.G.Murugesan

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the order of the third respondent in the proceeding in Na.Ka.P9/1647/2020 dated 03.02.2021 and set aside the same and subsequently directing the third respondent to execute the order passed in the proceedings in Na.Ka.P9/1647/2020 dated 07.01.2021.

For Petitioner : Mr.K.Neethi Mohan

For R-1, R-3 & R-4 : Mr.A.K.Manickam
Standing Counsel for Government

For R-2 : Mr.A.Kannan

For R-5 : Mr.K.R.Laxman



O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.K.Neethi Mohan, learned Counsel appearing for the petitioner, Mr.A.K.Manickam, learned Standing Counsel for Government appearing for the respondents 1, 3 and 4, Mr.A.Kannan, learned counsel appearing for the second respondent and Mr.K.R.Laxman, learned counsel appearing for the fifth respondent.

2. The petitioner, who is a purchaser of a plot in an unapproved lay out seeks for a direction upon the respondents to clear the encroachment made by the fifth respondent on the pathway.

3.We have elaborately heard the learned counsel for the parties and we find that the lay-out still continues to remain as a unapproved lay-out and the Municipality has no control over the common areas in the lay-out.

4.The petitioner states that the fifth respondent has blocked the pathway.

5.The fifth respondent would state that there is no pathway and it is the property of the fifth respondent and the lay-out has a different access and entry and the attempt of the petitioner is to have a second entry into the lay-out through the land owned by the fifth respondent.

6.The learned Standing Counsel appearing for the respondent- Municipality would submit that the lay-out is an unapproved lay-out and the application for building plan permission has been rejected for several persons and the property in question is not vested with the Municipality. As to whether there was a land left for the formation of a road in an unapproved lay-out has to be examined, for which purpose the sale deeds of the owners of the property in that area or the plots adjoining the alleged road will speak for itself.

7.Therefore, we direct the respondents 2 and 3 to nominate one Officer of their department to conduct an inspection of that area and the petitioner is directed to produce the copy of the sale deed and the neighbours may also be directed to produce the sale deed. The fifth respondent shall be put on notice and after examining the documents and hearing the petitioner during the inspection, the competent authority shall pass a speaking order on merits and in accordance with law.



8. With the above directions, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS II)

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// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RM

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector
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+1 CC to M/s.A.KANNAN, Advocate (SR-22242[F] dated 13/07/2021)

+1 CC to M/s.SPL GP (SR-22280[F] dated 13/07/2021)

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