



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.7828 of 2021

WEB COPY

G.Rajeshkanna

... Petitioner

Vs.

1.The District Collector,
Thoothukudi District.

2.The Tahsildar,
Ettayapuram,
Thoothukudi District.

3.Mr.Baluchamy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 and 2 herein to lay the link road connecting the main road through the land in Survey No.360/14 situated at Chinna Malai Kundru Village, Ettayapuram Taluk, Thoothukudi District, within a stipulated time as fixed by this Court.

For Petitioner : Mr.S.Ramasamy

For Respondents 1& 2 : Mr.K.Mu.Muthu,

Additional Government Pleader

O R D E R

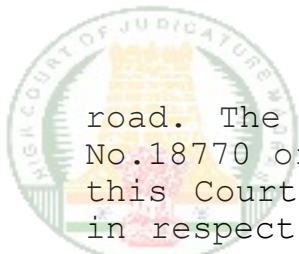
[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.S.Ramasamy, learned Counsel appearing for the petitioner and Mr.K.Mu.Muthu, learned Additional Government Pleader appearing for respondents 1& 2.

2.This writ petition designed as a Public Interest Litigation, has been filed to lay a link road connecting the main road through the land in Survey No.360/14 situated at Chinna Malai Kundru Village, Ettayapuram Taluk, Thoothukudi District.

3.Though one Baluchamy, son of Subbiah Naicker has been impleaded as the third respondent in the writ petition, for the reasons which we are going to assign in this order, notice to the said respondent is dispensed with.

4.The local villagers had objected to the illegal occupation of Baluchamy on a public road. The matter was enquired into and the Tahsildar, Ettayapuram, the second respondent herein has passed an order on 27.10.2020. A reading of the order will clearly show that there is an encroachment in public road and in fact, the Tahsildar has directed that nobody can restrict the public from using the said



road. The third respondent has filed a Writ Petition in W.P.[MD] No.18770 of 2020, and from the order passed by the Division Bench of this Court on 21.12.2020, we find that the third respondent herein in respect of several opportunities, has not produced any documents to substantiate his stand that he is entitled to the pathway, exclusively.

5.In such circumstances, the Tahsildar, Ettayapuram, cannot refuse to implement his own order dated 27.10.2020, by citing the pendency of the writ petition when there is no interim order granted in the writ petition nor any documents produced to substantiate the claim.

6.In the light of the above, the writ petition is disposed of by directing the second respondent to implement his order dated 27.10.2020 and if necessary, seek police assistance. However, in the event the third respondent produces any document to establish his right over the property, the same can be considered.

7.Accordingly, the Writ Petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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.*

MR

To

1.The District Collector,
Thoothukudi District.

2.The Tahsildar,
Ettayapuram,
Thoothukudi District.

+1 CC to M/s.SPL GP (SR-16249[F] dated 17/04/2021)

ORDER MADE IN

W.P. [MD]No.7828 of 2021

15.04.2021

GS (27.04.2021) 2P 4C

<https://hcservices.ecourts.gov.in/hcservices/>