



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.07.2021

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P(MD)No.12345 of 2021

and W.M.P. (MD)No.9694 of 2021

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Sangupandi

... Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Block Development Officer,
Kalayarkoil Panchayat Union,
Sivagangai District.

3.The President,
Maranthai Village Panchayat,
Kalayarkoil Panchayat Union,
Sivagangai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents from laying the public road in the petitioner's land situated in Survey No.9/4 of Maranthai Village Group, Kalayarkoil Taluk, Sivagangai District, without following Section 137 of Tamil Nadu Panchayat Act, 1994.

For Petitioner : Mr.V.Kannan

For Respondents : Mr.Lingadurai,
Government Advocate for R1.

Mr.P.Thilak Kumar,
Government Advocate for R2

Mr.H.Arumugam for R3.

ORDER

This writ petition has been filed for the issue of a writ of Mandamus, forbearing the respondents from laying a public road in the private property belonging to the petitioner in violation of the Tamil Nadu Panchayat Act.

2.The Case of the petitioner is that her father was the owner of the subject property situated at S.No.9/4, Maranthai Village



Group, Kalayarkoil Taluk, Sivagangai District. According to the petitioner, her father died on 02.03.2017 and thereafter, the petitioner and her sister became the absolute owner of the property and they are in possession and enjoyment of the same.

3.The grievance of the petitioner is that the second respondent had acquired certain properties adjacent to the property belonging to the petitioner and steps were taken to lay a public road. A work order was also given in this regard by the second respondent. However, the petitioner found that an attempt has been made to lay the public road by encroaching upon the patta land of the petitioner. The petitioner, therefore, made a representation to the respondents, on 08.07.2021. Since the same did not evoke any response, the present writ petition has been filed before this Court, seeking for appropriate directions.

4.Heard Mr.V.Kannan, learned counsel appearing for the petitioner, Mr.M.Lingadurai, learned Government Advocate, appearing for the first respondent, Mr.P.Thilakkumar, learned Government Advocate appearing for the second respondent and Mr.H.Arumugam, learned counsel appearing for the third respondent.

5.In the considered view of this Court, the respondents cannot proceed to lay a public road in the private property belonging to the petitioner. If there is any such proposal, the property has to be acquired by paying a proper compensation. However, it has to be determined as to whether any attempt is being made to lay the road in the private property belonging to the petitioner. This can be properly ascertained only if a survey is conducted based on the title deed belonging to the petitioner. Whatever the extent owned by the petitioner and her sister will be clearly revealed at the time of survey. Once the survey is properly conducted, thereafter, the respondents will be clear as to the portion of the property belonging to the petitioner and they cannot lay a road on that property.

6.In view of the above discussion, there shall be a direction to the jurisdictional Tahsildar, to fix a date for conducting a survey with the help of the surveyor. On the date of survey, the petitioner shall produce the title document and the survey shall be conducted in accordance with the title document of the petitioner. It is made clear that the petitioner shall co-operate for survey on the date it is fixed. The boundaries shall be marked and thereafter, the respondents shall not encroach upon the property belonging to the petitioner and the road shall be laid only in the property that has already been acquired. This process shall be completed by the Tahsildar, within a period of two weeks from the date of receipt of a copy of this order. Till this process is completed and the property is properly identified, the road laying work shall be kept in abeyance.



7.This writ petition is disposed of with the above directions.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar(CS)

TM

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,
Sivagangai District,
Sivagangai.
- 2.The Block Development Officer,
Kalayarkoil Panchayat Union,
Sivagangai District.
- 3.The Jurisdictional Tahsildar,
Sivagangai District.

+1 CC to M/s.GP (SR-23700[F] dated 23/07/2021)

+1 CC to M/s.H.ARUMUGHAM, Advocate (SR-23784[F] dated 23/07/2021)

**W.P (MD) No.12345 of 2021
22.07.2021**

RK (30.07.2021) 3P 6C