



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.08.2021

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD)No.14275 of 2021

M.Viswanathan

... Petitioner

Vs.

1. The District Collector,
Pudukottai District, Pudukottai.

2. The Tahsildar,
Aranthangi Taluk, Pudukottai District.

3. Executive Engineer,
Public Works Department,
Kallanaikalvoikottam,
Thanjavur, Thanjavur District.

... Respondents

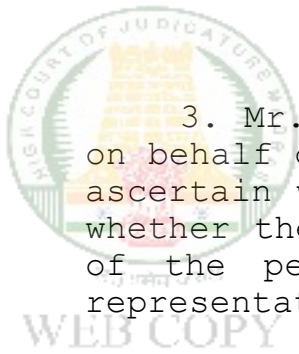
Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the third respondent to consider the petitioner's representation dated 22.02.2021 and to provide the pathway in the Government Poramboke land in Survey No.47-1 situated at Sidhakanni Village, Aranthangi Taluk, Pudukottai District.

For Petitioner : Mr.M.Ramu
For Respondents : Mr.P.Subbaraj

O R D E R

The petitioner seeks the consideration of his representation dated 22.02.2021 for providing a pathway to him through a Government Poramboke land in Survey No.47-1, Sidhakanni Village, Aranthangi Taluk, Pudukottai District.

2. The petitioner states that he is the owner of the land in Survey Nos.27B/5B, 27B/1 at the aforesaid village. He cites the patta issued in respect thereof under Patta Nos.746 and 736. In order to access his land, he states that there is no other access except through the Government Poramboke land in Survey No.47-1. Therefore, he had submitted a representation on 04.10.2017 and on account of the failure to respond thereto, had filed W.P(MD). No.17128 of 2018. Such writ petition was disposed of on 02.08.2018 by directing the third respondent herein to dispose of his representation. Pursuant thereto, the respondents initiated steps but abandoned the same on account of encroachment on the Government land. The present writ petition has been filed on account of the failure of the respondents to act on a subsequent representation dated 22.02.2021.



3. Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of all the respondents. He submits that it is necessary to ascertain whether the petitioner is the owner of adjacent lands and whether the land in Survey No.47-1 is the only access to such lands of the petitioner. Therefore, he submits that the petitioner's representation would be considered and disposed of on merits.

4. The owner of a dominant heritage would be entitled to an easement of the land which provides the only access to such dominant heritage owned by him. In the case at hand, the situation on the ground should be assessed to ascertain whether, as contended by the petitioner, the lands in Survey No.47-1 provide the only access to the petitioner's land. If so, the petitioner may be entitled to an easement of necessity.

5. With the above observations but without going into the merits of the matter, the respondents 2 and 3 herein are directed to consider the petitioner's representation dated 22.02.2021 and dispose of the same by a reasoned order within a period of two months from the date of receipt of a copy of this order. Such reasoned order shall be passed after providing a reasonable opportunity to the petitioner and any others who would be affected by such decision.

6. W.P(MD).No.14275 of 2021 is disposed of on these terms without any order as to costs.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To:

1. The District Collector,
Pudukottai District, Pudukottai.
2. The Tahsildar,
Aranthangi Taluk, Pudukottai District.
3. Executive Engineer,
Public Works Department,
Kallanaikalvoikottam,
Thanjavur, Thanjavur District.



W.P.(MD)No.14275 of 2021

+1 CC to M/s.SPL GP (SR-26389[F] dated 16/08/2021)

W.P. (MD) No.14275 of 2021
13.08.2021

MMS (CO)

KB(24.08.2021) 3P 5C