



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 15.07.2021

WEB COPY

CORAM:
THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
W.P (MD) NO.5150 of 2019
and
W.M.P (MD) No.4138 of 2019

Dileeepan Nadar

:Petitioner

.vs.

1.The District Collector,
Nagercoil,
Kanyakumari District.

2.The Project Director,
National Highway Authority of India,
Nagercoil,
Kanyakumari District.

3.The District Revenue Officer,
District Revenue Office,
Nagercoil,
Kanyakumari District.

4.The Competent Authority and the Special
District Revenue Officer,
Land Acquisition, National Highway,
Tirunelveli,
Tirunelveli District.

5.The Special Tahsildar,
Land Acquisition,N.H.47, Unit-III,
Vilavancode, Kanyakumari District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus restraining the respondents from laying road at the property of the Petitioner ad-measuring 117 sq.meters in Re.Sy.No.476/12 of Kulapuram Village at present Athencode Village, Vilavancode Taluk, Kanyakumari District and in consequence, to direct the respondents to remove the High Tension Electric Wires going across above property within the stipulated period fixed by this Court.

For Petitioner :Mr.B.Rajesh Saravanan

For Respondent-2 :Mr.Su.Srinivasan

For Respondents-1 :Mr.M.Lingadurai
and 3 to 5 Govt.Advocate



O R D E R

This Writ Petition has been filed for the issue of a Writ forbearing the respondents from laying road in the property belonging to the Petitioner measuring an extent of 117 sq.mts and to remove the electric wire that has been illegally taken across the property belonging to the Petitioner.

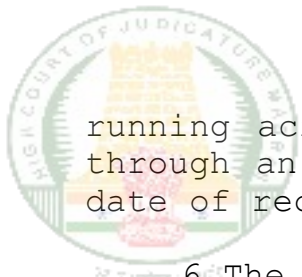
2. Heard Mr.B.Rajesh Saravanan, learned counsel appearing for the Petitioner, Mr.Su.Srinivasan, learned counsel appearing for the second respondent and Mr.M.Lingadurai, learned Government Advocate appearing for the respondents 1 and 3 to 5.

3. The second respondent has filed a counter affidavit. The relevant portion in the counter affidavit is extracted hereunder:

"6. With regard to paragraphs 13 to 15, it is submitted that the answering respondent have never attempted to lay road in the Petitioner's property measuring 117 sq mtrs in Re.Sy.No.476/12 of Old Kulapuram Village/new Athencode Village, Old Vilavancode Taluk & New Killiyur Taluk, Kanniyakumari District. The answering respondent never tried to lay the road as alleged and certainly would not lay the road in the Petitioner's unacquired lands without following acquisition procedure and without making payment of compensation as determined by the CALA or if is determined in the private discussion, if both parties willing for the same. Initially, the Petitioner had accepted for private negotiation for acquiring the said land and allowed to over head electric line, however, as afterthought he has not come forward for private negotiation and in the meanwhile, had approached this Honourable Court by the instant Writ Petition with false accusations.....".

4. In the considered view of this Court, there is absolutely no dispute with regard to the fact that the Petitioner continues to be the absolute owner of the subject property measuring an extent of 117 sq.mts. The second respondent has given an undertaking that no road will be laid in the private property belonging to the Petitioner without acquiring the same or without going for a private negotiation with the Petitioner. The said undertaking is recorded.

5. Insofar as the request made by the Petitioner for removal of overhead electric line running across the property belonging to the Petitioner, there shall be a direction to the second respondent to take immediate steps to remove the overhead electric line



running across the property of the Petitioner and take the line through an alternate route within a period of eight weeks from the date of receipt of a copy of this order.

6. The Petitioner is directed to make a fresh representation to the second respondent along with a copy of this order.

7. This Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

vsn

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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5. The Special Tahsildar,
Land Acquisition, N.H.47, Unit-III,
Vilavancode, Kanyakumari District.

+1 CC to M/s. SV. SRINIVASAN, Advocate (SR-22997[F] dated
16/07/2021)

W.P (MD) NO. 5150 of 2019

and

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15.07.2021