



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2021

CORAM

THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD)No.5222 of 2018

Thiyagarajan

... Petitioner

Vs.

- 1.The Secretary to Government,
Municipal Administration,
Secretariat, Chennai.
- 2.The Commissioner of Municipal Administration,
Chepauk,
Chennai - 600 005.
- 3.The District Collector,
Karur District, Karur.
- 4.The Commissioner,
Kulithalai Municipality,
Kulithalai, Karur District.
- 5.Srinivasan (Died)
- 6.Gowribai
- 7.Manimegalai
- 8.Sivakumar
- 9.Manickamanivasagam
- 10.Karpagavalli

... Respondents

R6 to 10 are impleaded vide Court order
dated 07.06.2021 in WMP (MD) No.6104
of 2021 in W.P.(MD) No.5222 of 2018 by
TSSJ & SAIJ

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 1 to 4 to acquire the piece of Tar road which is 236 feet length and 36 feet width situated in the S.No.59/8, at Kulithalai Vaigai Nallur North Village, Kulithalai Taluk, Karur District for the purpose of using that Tar road by the whole general public of Kulithalai Town and surrounding 18 villagers.

For Petitioner : Mr.R.Murugappan

For Respondent Nos.1 to 4 : Mr.Veera Kathiravan
Senior Standing Counsel for Government
Assisted by Mr.A.K.Manickam,
Standing Counsel for Government

For Respondent Nos.6 to 10: Mr.Arun Kumar Rajan

**ORDER****(Order of the Court was made by T. S. SIVAGNANAM, J.)**

This Writ Petition, styled as a Public Interest Litigation, has been filed by the petitioner praying for a direction upon the respondent Nos.1 to 4 to acquire the piece of Tar road, which is 236 feet length and 36 feet width, situated in the S.No.59/8, at Kulithalai Vaigai Nallur North Village, Kulithalai Taluk, Karur District for the purpose of using that Tar road by the whole general public of Kulithalai Town and surrounding 18 villagers.

2. Admittedly, a civil litigation is pending between the deceased fifth respondent and the Kulithalai Municipality, which is pending before this Court in S.A.(MD) No.672 of 2016. The plaintiff has succeeded before the trial Court in O.S.No.222 of 2001 by judgment dated 05.08.2010 and the appeal filed in A.S.No.50 of 2010 has been dismissed and possession of the land has been restored to the deceased 5th respondent/plaintiff. For the first time in this Writ Petition, a direction was issued clubbing the Second Appeal along with the Writ Petition and an interim injunction has been granted. In our considered view, the *status quo*, which was prevailing at the stage when the land was with the deceased 5th respondent/plaintiff needs to be maintained because concurrently the plaintiff succeeded before the Civil Courts. Therefore, we are of the view that the existing order of injunction would cause prejudice to the decree holder. That apart, when civil litigation is pending, a Public Interest Litigation cannot be entertained, that too for a direction to acquire the land, when the Municipality is fighting with the plaintiff stating that the land is a road and the plaintiff has no right over the road. Therefore, no Writ of Mandamus as sought for can be granted.

3. Accordingly, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

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 Secretary to Government,
Municipal Administration,
Secretariat, Chennai.

2.The Commissioner of Municipal Administration,
Chepauk,
Chennai - 600 005.

3.The District Collector,
Karur District, Karur.

4.The Commissioner,
Kulithalai Municipality,
Kulithalai, Karur District.

+1 CC to M/s.B.SENTHILKUMAR, Advocate SR-20484[F] dated 29/06/2021

+1 CC to M/s.SPL GP (SR-20577[F] dated 29/06/2021)

W.P. (MD) No. 5222 of 2018

28.06.2021

sss(CO)

TR(06.07.2021) 3P 7C