



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2022

CORAM

THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

WP.No.673 of 2022

and

WMP.No.721 of 2022

M/s.Mahavir Plantations Pvt Ltd.,
Rep. by its Managing Director
Sailesh T.Bhansali

... Petitioner

Vs

1.The District Collector,
The Nilgiris District
Udhagamandalam

2.The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Udhagamandalam

3.The Thasildar,
Udhagamandalam Taluk,
Udhagamandalam

4.The Village Administrative Officer,
Naduvattam Village,
Udhagamandalam

... Respondents

Prayer :-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents from interfering with the peaceful possession and enjoyment of petitioner property situated at Survey No.596/2 and 629/2 Naduvattam Revenue Village, Udhagamandalam Taluk, The Nilgiris District without following the due process of law.

For Petitioner : Mr.C.Vigneswaran

For Respondents : Mr.V.Jeevagiridharan,
Additional Government Pleader



ORDER

This writ petition is filed for direction forbearing the respondents from interfering with the peaceful possession and enjoyment of petitioner's property situated at Survey No.596/2 and 629/2 Naduvattam Revenue Village, Udhagamandalam Taluk, The Nilgiris District without following the due process of law.

2. Heard, Mr.C.Vigneswaran, the learned counsel for the petitioner and Mr.V.Jeevagiridharan, Additional Government Pleader appearing for the respondents.

3. The petitioner owned patta land comprised in SF.No.596/2 and 629/2 situated at Naduvattam Revenue Village, Udhagamandalam, Nilgiris District. The petitioner is in possession and enjoyment of the same. While being so, one Dr.Kavitha Shenbagam claiming to be the owner of the patta land in survey No.589 of Naduvattam Village has constructed a house adjacent to the subject property during the year 2020. The said construction was made in violation of the Tamilnadu District Municipalities (Hill Station) Building Rules, 1993 and Tamilnadu Hill Area Special Building Rules, 1981. The said person also removed several trees in the reserved forest to access her house. The petitioner made complaint to the forest officials with regards to forming pathway by the said person. Thereafter, enquiry was conducted. The reserved forest land is in between the petitioner's land and the land belongs to the said person. In pursuant to the representation submitted by the forest officials, the whole road was barricaded and a board was laid by forest department stating that the land belongs to the State and also a trench had been dug up to avoid vehicular traffic. Due to which, the said Kavitha Shenbagam instigated the villagers to pave way for the burial ground in the petitioner's land. The burial ground belongs to part of the petitioner's land and it has been illegally used by the villagers and the same has not been declared as burial ground by the Government or in the revenue records. Hence, the apprehension of the petitioner is that the respondents without any right over the property, they attempted to lay road to reach the burial ground.

4. On written instructions received from the second respondent, Mr.V.Jeevagiridharan, Additional Government Pleader appearing for the respondents submitted that the petitioner owned land comprised in SF.Nos.624, 629/2 and 596/2 situated at Naduvattam Village, Udhagamandalam Taluk, Nilgiris District. Through the subject land, a road passes towards the petitioner estate and terrace estate. From the said land comprised in SF.No.624, the pathway leads towards SF.No.629/2 and 596/2 of the petitioner. There is a burial ground in SF.No.629/2 used by workers of the petitioner plantation for about 50 years and to reach burial ground from the road in SF.No.624, there is a



footpath and it is now widened long back. In order to avoid vehicle movement along the widened pathway comprised in SF.No.629/2, the petitioner has opened a trench at the entrance of the pathway. As the trench hinders the free movement of people to reach the burial ground, the Public Accounts Committee visited that spot and instructed to take appropriate action in this regard. Accordingly, action was taken to close the trench and as it obstructs the access to the burial ground and closed on 30.12.2021. In fact, the petitioner itself closed the trench as early as on 11.01.2022 itself. That apart, on enquiry the petitioner stated that mistakenly the trench was opened by the labourers and now it was closed in the presence of Village Administrative Officer by its workers and also assured that they will not open the trench hereafter.

5. Therefore, the respondents never attempted to lay any road in the subject land. In fact, the petitioner dug up the trench thereby obstructed the access to the burial ground and now it has been closed. As such, this writ petition is devoid of merits and liable to be dismissed.

6. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
The Nilgiris District
Udhagamandalam

2.The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Udhagamandalam

3.The Thasildar,
Udhagamandalam Taluk,
Udhagamandalam

4.The Village Administrative Officer,
Naduvattam Village,
Udhagamandalam

+1cc to the Government Pleader SR.No.4032

WP.No.673 of 2022

SSN(CO)
SB(10/02/2022)