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W.P.No.25659 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

W.P.No.25659 of 2022 and WMP.Nos.24667 and 24668/2022

1. C.Thangamuthu
2. S.Muthukumar

.. Petitioners

v.

1. The District Collector,
Office of the District Collector,
Tiruppur District.
2. The District Revenue Officer,
District Collectorate,
Tiruppur District.
3. The Sub-Collector,
Office of the Sub-Collector,
Dharapuram,
Tiruppur District.
4. The Tahsildar,
Dharapuram Taluk,
| Tiruppur District.



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5. The Executive Engineer,
Public Works Department,
Amaravati Delta Division,
Dharapuram.

6. P.Kanakaraj

.. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbearing the respondents from interfering with the right of way of the petitioners and the other residents at S.No.1461/2, S.No.1477 and S.No.1727/1 of Sangarandampalayam Village, Dharapuram Taluk, Tirupur District.

For Petitioners :: Mr.V.Raghavachari

For Respondents :: Mr.P.Muthukumar,

1 to 5 State Government Pleader

ORDER

(Order of the Court was made by the Hon'ble Acting Chief Justice)

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, forbearing the respondents from in anyway interfering with the right of way of the petitioners and the other residents at Survey Numbers 1461/2, 1477 and 1727/1 of Sangarandampalayam Village, Dharapuram



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Taluk, Tirupur District.

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2. Learned Counsel appearing for the petitioners would submit that a pathway is running across the south of old S.No.731, a portion of Survey No.730 and is also running through the Survey Numbers 729 and 725 moving North to other areas. There is a mud road in S.No.729 and this has been raised on a pipeline fixed to enable the water to be drained into Amaravathi river in New S.No.1727/1. Therefore, the villagers are using the said road from time immemorial. On inspection, the Revenue authorities as well as the Survey Authorities found that it is a low-line stream beneath the surface and the rain water flows through this field. Further, during the rainy season, the rain water joins Amaravathi river through the water channel. But two huge pipes measuring 4 feet in diameter have been laid enabling the water to flow freely. The said road in S.No.1461/2 is also being used by the public of Kazhungapalayam to approach Kulathupalayam. The residents of Karungalpalayam Village have no other way to reach Athukalpudhur and Kolathupalayam Villages except



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through the said mud road. Thus, when the road has been formed by the villagers, it has been in existence for over a century.

3. Learned Counsel for the petitioners would further submit that the road has been formed from S.No.1477/2 and then, it runs through S.No.1461/3 patta land and then enters into S.No.1461/2 which is also classified as 'Vari Poromboke' in the revenue records and the same road also enters into S.No.1427/1 before it proceeds further. Since a portion of S.No.1460/3 belongs to one Kandasamy, he has filed a complaint before Uthiyur Police Station, complaining that a tree has been cut and a civil suit in O.S.No.537/2019 is also pending between the villagers and the said Kandasami. While so, one Mr.Kanakaraj, son-in-law of Kandasamy has filed a writ petition in W.P.22593/2019 for issuance of a writ of Mandamus, directing the respondents to remove the encroachments in Survey Nos.1461/2, 1477/2, 1727/1 in Sangarandampalayam, Dharampuram Taluk, Tiruppur District, without further delay, suppressing the pendency of the civil proceedings in O.S.No.244/2019 on the file of the learned District



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Munsif, Dharapuram. This Court also, without examining the merits of the representations dated 16.3.2018, 19.5.2018, 18.6.2018 and 23.8.2018, directed the official respondents therein to dispose of the same by a speaking order within a period of six weeks from the date of receipt of a copy of that order, after providing a reasonable opportunity to the affected parties. In the strength of the said order passed, the revenue authorities are threatening the petitioners and they are prepared to remove the road which is being used by the school going children and the public of Kazhungapalayam.

4. It is, at this stage, learned Government Pleader for the official respondents would submit that before taking any decision for removal of the road-in-question, the official respondents would examine the revenue records and issue a proper notice to the petitioners and the other affected parties and thereafter, final orders would be passed, after affording an opportunity of hearing to all the parties concerned.



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5. Recording the said statement of the learned Government Pleader appearing for the official respondents, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are also closed.

(T.R.,A.C.J.) (P.D.A., J.)
23.09.2022

Index : Yes/No

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