



W.P.Nos.41030 & 41031 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2022

CORAM:

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.41030 & 41031 of 2015

and

MP.No.1 of 2015 (2 Nos.) & WMP.No.9178 of 2018

Kaveriyammal
2015

...Petitioner in W.P.No.41030 of

S.Selvarasu

...Petitioner in W.P.No.41030 of 2015

Vs.

1. The District Collector,
The Office of District Collector,
Villupuram, Villupuram District.
2. The Revenue Divisional Officer,
The Office of Revenue Divisional Officer,
Kallakurichi, Villupuram District.
3. The Tahsildar,
The Office of Tahsildar,
Chinna Salem, Villupuram District.
4. The Block Development Officer,
Block Development Office (BDO),
Chinna Salem, Villupuram District.



W.P.Nos.41030 & 41031 of 2015

5. The Additional Block Development officer,
(Addl. BDO),

WEB COPY

Chinna Salem, Villupuram District.

...Respondents in both W.Ps.

Prayer in W.P.No.41030 of 2015: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 4th respondent relating to his proceedings bearing No.Na.Ka.No.Aa/2/2795/2015 dated 16.12.2015, quash the same and consequently restrain the respondents from laying road in petitioner's patta land comprised in Survey Numbers 153/4B, 153/5B of Thenchettiyanthal Village without following the due process of law.

Prayer in W.P.No.41031 of 2015: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 4th respondent relating to his proceedings bearing No.Na.Ka.No.Aa/2/2794/2015 dated 16.12.2015, quash the same and consequently restrain the respondents from laying road in petitioner's patta land comprised in Survey Numbers 153/2C, 153/3B of Thenchettiyanthal Village without following the due process of law.

In both W.P's:

For Petitioners : Mr.R.Prabudoss

For Respondents : Ms.Akila Rajendran, GA, for R1 to R3
: Mr.P.Chinnadurai, for R4 & R5

ORDER

Since the issue involved in both the Writ petitions are similar in nature, they are disposed of by way of this common order.



W.P.Nos.41030 & 41031 of 2015

2. The petitioners have filed these Writ Petitions seeking issuance of a Writ of Certiorarified Mandamus to call for records of the 2nd respondent in respect of the proceedings bearing Na.Ka.No.Aa/2/2795/2015 & Na.Ka.No.Aa/2/2794/2015, both dated 16.12.2015, quash the same and to consequently, restrain the respondents from laying road in the petitioners' patta lands.

3. The case of the petitioners is that the petitioners herein are mother and son and the petitioner in W.P.No.41030 of 2015 (hereinafter referred as '1st petitioner') is the owner of the lands comprised in S.Nos.153/4B & 153/5B, measuring an extent of 1 Ares each, situated at Thenchettiyanthal Village and the petitioner in W.P.No.41031 of 2015 (hereinafter referred as '2nd petitioner') is the owner of the lands comprised in S.Nos.153/2C & 153/3B, measuring an extent of 8.5 Ares and 1.5 Ares respectively, situated in the very same village and they have also got patta for their respective lands in their names and they are in absolute possession and enjoyment of their respective lands. While so, the 4th & 5th respondents, along the Village Administrative Officer (in short 'VAO'), entered into the petitioners' lands and



W.P.Nos.41030 & 41031 of 2015

WEB COPY
tried to lay a road without issuing prior notice to the petitioners. Immediately, the petitioners sent a detailed representation dated 24.10.2015 to the respondents, however, the same was not considered. Aggrieved by the inaction on the part of the respondents, the petitioners filed a Writ petition in W.P.No.35304 of 2015 and this Court, vide order dated 03.11.2015 directed the 4th respondent to pass orders on the petitioners' representation and also issued an order of Status quo insofar as the laying of road, till the disposal of the said representation. In compliance of the order of this Court, the 4th respondent called the petitioners for enquiry on 14.12.2015 and passed the present impugned orders dated 16.12.2015, vide proceedings bearing Na.Ka.No.Aa/2/2795/ 2015 & Na.Ka.No.Aa/2/2794/2015, rejecting the petitioners' claim, on the ground that the subject lands are classified as Nilaviyal Pathai and the respondents are entitled to lay road on the same. Challenging the same, the petitioners filed these Writ petitions.

4. Learned counsel for the petitioners submitted that, the subject lands are owned by the petitioners and their family members and they were also issued patta in their favour in respect of the subject properties and earlier



W.P.Nos.41030 & 41031 of 2015

there was no such classification as Nilaviyal Pathai. Further, the 4th respondent has passed the present impugned orders without affording sufficient opportunity of personal hearing to the petitioners, which is not sustainable. He further more submitted that, already a pathai is situated in S.No.156 and the subject lands are patta lands owned by the petitioners and it is not a pathai. Hence, he prayed for appropriate orders.

5. Learned counsel appearing for the 4th and 5th respondents submitted that the 4th respondent sent a proposal to the 1st respondent for laying Namachivayapuram to Nagakuppam road under Bus Plying Road Improvements Scheme 2014-15 for a total length of 6.15 Km and accordingly, the 1st respondent accorded administrative sanction, vide proceedings bearing Roc.No.B7/5322/2014 dated 15.02.2015. Further, though the 2nd petitioner claim that he has acquired the disputed lands in S.Nos.153/2C and 153/3B from one Nattu Gounder, no document was produced by him to substantiate his contention. The land in S.No.153/2C is situated to the north of the path used by the public. He further submitted that, the 2nd respondent inspected the pathway situated in S.No.153/6 and filed a



W.P.Nos.41030 & 41031 of 2015

report in letter No.4534/95/A2 dated 22.08.1995 and submitted that the road was laid with proper measurement and the land was properly surveyed and the land was allotted for laying road without causing any damage to the petitioners' lands. Hence, the orders impugned in these Writ petitions need no interference of this Court and the present Writ petitions deserves to be dismissed.

6. On the above said contentions, heard learned Government Advocate for the respondents 1 to 3 and perused the materials available on record.

7. Admittedly, the land comprised in S.No.153/2C is registered in the name of one Arumugam Gounder and Kandhasamy Gounder and the lands in S.Nos.153/4B & 153/5B are registered in the name of the 1st petitioner and the land in S.No.153/3B stands in the name of one Kandhasamy Gounder. Further, the learned Government Advocate fairly submitted that the lands are registered in the names of the respective owners and only the lands in S.Nos.153/2C & 153/4B are classified as Nilaviyal Pathai and no such classification is given for the lands in S.Nos.153/3B & 153/5B. However, the 4th respondent, vide the present impugned orders classified the entire subject



W.P.Nos.41030 & 41031 of 2015

lands as Nilaviyal Pathai. Hence, it is clear that, the 4th respondent has passed the present impugned orders mechanically without verifying any of the facts. More over, the impugned orders were passed without affording sufficient opportunity of personal hearing to the petitioners, which is a clear violation of principle of natural justice. Hence, on this sole ground, the orders impugned in these Writ petitions are liable to be set aside.

8. Accordingly, these Writ Petitions are allowed in the above terms. However, liberty granted to the respondents to lay the road in S.No.153/2C & 153/4B which is classified as Nilaviyal Pathai. No Costs. Consequently, connected Miscellaneous petitions are closed.

29.08.2022

skt

Index : Yes/No

Speaking order : Yes/No

To:

1. The District Collector,
The Office of District Collector,
Villupuram, Villupuram District.

7/9



W.P.Nos.41030 & 41031 of 2015

WEB COPY

2. The Revenue Divisional Officer,
The Office of Revenue Divisional Officer,
Kallakurichi, Villupuram District.
3. The Tahsildar,
The Office of Tahsildar,
Chinna Salem, Villupuram District.
4. The Block Development Officer,
Block Development Office (BDO),
Chinna Salem, Villupuram District.
5. The Additional Block Development officer,
(Addl. BDO),
Chinna Salem, Villupuram District.

M.DHANDAPANI, J.

skt

W.P.Nos.41030 & 41031 of 2015
and



WEB COPY



W.P.Nos.41030 & 41031 of 2015

MP.No.1 of 2015 (2 Nos.) & WMP.No.9178 of 2018

29.08.2022