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W.P.No.26891 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2022

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.26891 of 2022

S.Venkatesh

.. Petitioner

v.

1. The District Collector
and Inspector of Panchayats
Salem District
Salem

2. The Sub Collector/Revenue
Divisional Officer
Mettur Revenue Division
Mettur Dam, Salem District

3. The Tahsildar
Kadaiyampatti Taluk
Kadaiyampatti
Salem District



W.P.No.26891 of 2022

4. The Village Administrative Officer
Theevattipatti Revenue Village
Theevattipatti, Kadaiyampatti Taluk
Salem District

5. The Block Development Officer/Commissioner
Kadaiyampatti Panchayat Union
Kadaiyampatti, Salem District

6. R.Ramesh .. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 2 to 5 to ensure the usage of "Cart Track" (Vandi Pathai) passes in S.No.5/81 and S.No.5/7C situated at Theevattipatti Village, Kadaiyampatti Taluk, Salem District and to restore the said Cart Track to its original position so as to enable the petitioner to reach his lands through the said Cart Track based on his representation dated 29.01.2022.

For Petitioner :: Mr.M.R.Jothimanian

For Respondents :: Mr.P.Muthukumar
State Government Pleader
for R1 to R4

ORDER

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

Mr.S.Venkatesh, S/o Mr.Saminathan has filed this writ petition under Article 226 of the Constitution of India to direct the respondents 2 to 5 to



W.P.No.26891 of 2022

WEB COPY

ensure the usage of "Cart Track" (Vandi Pathai) passing in Survey No.5/81 and Survey No.5/7C situated at Theevattipatti Village, Kadaiyanpatti Taluk, Salem District and also to restore the said Cart Track to its original position so as to enable the petitioner to reach his lands.

2. Mr.M.R.Jothimanian, learned counsel appearing for the petitioner submitted that the petitioner, being a resident of Theevattipatti Village, has been doing agricultural activities to eke out his family livelihood. As Theevattipatti Village is situated in a remote area adjoining the Kundukkal Reserve Forest as well as NH-7 Dharmapuri-Salem Highway, after facing lot of problems, as the neighbours started to obstruct/block the cart track in Survey No.5/81 and Survey No.5/7C of Theevattipatti Village, the petitioner and the villagers made a request to the official respondents to ensure the usage of the cart track by the villagers in Survey No.5/81 and Survey No.5/7C of Theevattipatti Village. The third respondent also has agreed to take action against the obstructions made by the neighbouring land owners. After sometime, the Village Panchayat also passed a resolution to lay a road



W.P.No.26891 of 2022

WEB COPY

in the cart track for their usage. But subsequently, there has been no action. Therefore, a detailed representation was made by the villagers to the respondents 3 to 5 on 23.12.2021 requesting the respondents to take action against the obstructions made in the cart track in Survey No.5/81 and Survey No.5/7C of Theevattipatti Village. Again no action has been taken. Therefore, the petitioner has been advised to come to this Court. Concluding his arguments, it is stated that even the village map also shows that there is a cart track. Therefore, on the basis of the village map, a direction may be issued, he pleaded.

3. Mr.P.Muthukumar, learned State Government Pleader appearing for the respondents 1 to 4, placing on record the written instructions along with a copy of the 'A' register, demonstrated before us that the lands covered in Survey No.5/81 and Survey No.5/7C are patta lands exclusively owned by the pattadhar-Ms.Dhanam. If the petitioner is able to succeed in establishing his easementary right for a cart track even inside a patta land, he has to workout his remedy in the manner known to law and no writ will lie.



W.P.No.26891 of 2022

WEB COPY

4. We also find merits on the submissions made by the learned State Government Pleader appearing for the respondents 1 to 4. A perusal of the 'A' register clearly shows that the lands covered in Survey No.5/81 and Survey No.5/7C situated in Theevattipatti Village belong to one Ms.Dhanam, therefore, we are unable to entertain this writ petition. Accordingly, the writ petition is dismissed. However, Mr.Jothimanian, learned counsel appearing for the petitioner submitted that this Court has got enormous power to make even a patta land as a cart track. But we are unable to support the said argument for the reason as indicated above. There is no order as to costs.

Speaking/Non speaking order

(T.R.,A.C.J.) (D.K.K.,J.)

Index : yes/no

10.10.2022

SS

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W.P.No.26891 of 2022

WEB COPY

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WEB COPY



W.P.No.26891 of 2022

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W.P.No.26891 of 2022

10.10.2022