



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.24773 of 2021

And

W.M.P.No.26050 of 2021

P.Sunil

... Petitioner

Vs.

- 1.The Secretary to Government,
Revenue Department,
Fort St.George,
Chennai - 600 009.
- 2.The Chief Secretary and Revenue
Administration Commissioner,
Ezhilagam,
Chepauk,
Chennai - 600 005.
- 3.The Collector,
Singaravelar Maligai,
62, Rajaji Salai,
Chennai - 600 001.
- 4.The District Revenue Officer,
Chennai District,
62, Rajaji Salai, 4th Floor,
Chennai - 600 001.
- 5.The Revenue Divisional Officer,
Chennai South Division,
Anna Salai, Guindy,
Chennai - 600 032.
- 6.The Tahsildar,
1, Old Mahabalipuram Road,
Semmanchery,
Arasankalani, Sholinganallur,
Chennai - 600 119.



7. Tamilnadu Public Works Department,
Kamarajar Promenade, PWD Estate,
Chepauk, Triplicane,
Chennai - 600 005.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to restore the path around the lake in survey No.527 situated in Sholinganallur Village, Chennai which was in existence from time immemorial and also allow the petitioner to use the same to reach his land and declare the action of the respondents in closing the path around the lake in Survey No.527 situated in Sholinganallur Village, Chennai which was in existence from time immemorial and thereby depriving to use the same to reach their land by raising the compound wall is nothing but arbitrary, illegal, unjustified and also violation of Article 14 and 21 of Constitution of India apart from being contrary to the well settled principles of law laid down under Easements Act, 1882.

For Petitioner : Mr.K.P.Shanthosh

For Respondents : Mr.G.Nanmaran
Special Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the respondents to restore the path around the lake in survey No.527 situated in Sholinganallur Village, Chennai, which was in existence from time immemorial and to allow the petitioner to use the same to reach his land and to declare the action of the respondents in closing the path around the lake in Survey No.527 situated in Sholinganallur Village, Chennai, which was in existence from time immemorial and thereby depriving to use the same to reach their land by raising the compound wall is nothing but arbitrary, illegal, unjustified and also violation of Article 14 and 21 of Constitution of India apart from being contrary to the well settled principles of law laid down under the Easements Act, 1882.



2.The case of the petitioner is that the petitioner purchased the land in Survey No.537/8A and 537/8B in Sholinganallur Village, Chennai on 18.10.2005. The said land is bounded in North by a Lake and there is a path around the lake and it is only way to access the land and nearly 100 acres of land are solely dependent on the said lake for irrigation purpose. Whiles, a retention wall is erected around the lake without any sanction from the competent Authorities and from January, 2021, the land became inaccessible and water could not be taken from the lake. In this regard, the petitioner issued legal notice dated 09.01.2021 to the respondents 3 to 7 and since there is no response has filed this writ petition.

3.The learned counsel appearing for the petitioner submitted that the petitioner used the pathway from the date of purchase of the land and in order to deprive the rights of the petitioner and adjacent land owners, the respondents have put up the wall in and around the lake, preventing them from reaching their lands. Hence, this Court may issue direction to restore the path around the lake in Survey No.527 situated in Sholinganallur Village, Chennai.

4.The learned Special Government Pleader appearing for the respondents submitted that the petitioner did not establish the fact that there is pathway existing to reach the petitioner's and adjacent land owners land and further submitted that in order to avoid encroachments around the lake area, the respondents erected the compound wall. In the absence of any record to show that there is pathway existing, the prayer sought for in this writ petition is not sustainable one.

5.Admittedly, the petitioner purchased the land in Survey No.537/8A and 537/8B in Sholinganallur Village, Chennai on 18.10.2005. The petitioner claim that there is a pathway around the lake in Survey No.527 situated in Sholinganallur Village, Chennai, for him and the adjacent land owners to reach their lands. However, the petitioner is not able to establish that there exists a pathway. In the absence of any evidence to establish that there exists a pathway around the lake, the prayer sought for by the petitioner cannot be considered under Article 226 of the Constitution of India, since the issue involved cannot be decided in a writ petition.



6. In view of the above, this writ petition is dismissed. However, liberty is granted to the petitioner to work out the remedy in the manner known to law. No costs. Consequently, the connected miscellaneous petition is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

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7. Tamilnadu Public Works Department,
Kamarajar Promenade, PWD Estate,
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+1cc to Mr.K.P.Shanthosh, Advocate Sr.7898
+1cc to the Government Pleader Sr.8330

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gmr[co]
srg 11/03/2022