



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD)No.2897 of 2011

and

M.P. (MD)Nos.2 and 3 of 2011

WEB COPY

1. Kandan @ Kandamanickam
2. Kavitha
3. S.Natarajan ... Petitioners

versus

1. The Executive Magistrate cum
Revenue Divisional Officer,
RDO Office,
District Collectorate,
Trichy -1,
Trichy District.

2. The Inspector of Police,
Cantonment Police Station,
Cantonment,
Trichy - 1,
Trichy District.

3. The Tahsildar,
Taluk Office,
Trichy,
Trichy District.

4. T.Panneerselvam ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certioari, to call for the records relating to the first respondent's proceedings made in Na.A1-834-2011 dated 09.02.2011 and quash the same.

For Petitioner : Mr.R.Sundar
For R1 to R3 : Mr.S.P.Karthick
Government Advocate

ORDER

This writ petition is filed as against the order dated 09.02.2011 passed by the first respondent/the Revenue Divisional Officer, Trichy, on the petition filed by the 4th respondent under Section 133 Cr.P.C.

2. The grievance of the petitioner is that the pathway is an exclusive property of the petitioner, which has already been



declared by the learned District Munsif, Tiruchirappalli, in O.S.No.839 of 1990, on 17.10.2006 and the order impugned in this writ petition was passed at the instance of the fourth respondent, who is also one of the plaintiffs in the civil suit.

3. The learned Government Advocate appearing for the respondents 1 to 3 submits that the land is a Government Poromboke land, which has been used as a pathway and based on the revenue records, the first respondent has passed the impugned order.

4. There is no representation for the fourth respondent.

5. This Court considered the rival submissions made and perused the materials available on record.

6. Though the petitioner has referred to the Judgment dated 17.10.2006 passed by the learned District Munsif, Tiruchirappalli, in O.S.No.839 of 1990, declaring that it is a pathway, which is an exclusive property of the petitioner, the suit in O.S.No.839 of 1990 was decided without impleading the necessary parties, namely, the revenue officials. Since the Revenue Divisional Officer, Tiruchirappalli, who passed the impugned order on the petition filed under Section 133 Cr.P.C. and also based on the revenue records, this Court is not inclined to interfere with the impugned order. The finding of the Court in O.S.No.839 of 1990 is not binding the revenue officials when they are not a party to the suit.

7. In view of the above, the writ petition is dismissed. It is open to the petitioner to establish his right before the appropriate civil Court by impleading the necessary parties, namely, the revenue officials, as parties to the Civil Suit. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1. The Executive Magistrate cum
Revenue Divisional Officer,
RDO Office,
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Trichy -1,
Trichy District.



2. The Inspector of Police,
Cantonment Police Station,
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Trichy District.

3. The Tahsildar,
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Trichy,
Trichy District.

COPY TO:

THE DISTRICT MUNSIF,
TIRUCHIRRAPPALLI.

+1 CC to M/s.R.SUNDAR, Advocate (SR-15283[F] dated 30/03/2022)

+1 CC to M/s.SPL GP (SR-15347[F] dated 30/03/2022)

W.P. (MD)No.2897 of 2011
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SB (CO)

GC (09.06.2022) 3P 7C