



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. [MD]No.19426 of 2021

and

W.M.P[MD]No.16149 of 2021

WEB COPY

M.Ganesan

... Petitioner

Vs.

1.The President,
Arasoor Village Part I,
Sathankulam Taluk,
Thoothukudi District.

2.The Revenue Divisional Officer,
Thoothukudi District,
Thoothukudi.

3.The District Collector,
Thoothukudi District,
Thoothukudi.

4.S.Ganeshan

... Respondents

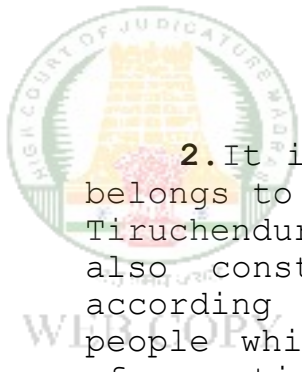
[R4 is impleaded vide court order dated 14.12.2021 in W.M.P.[MD] No.18766 of 2021 in W.P.19426 of 2021]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, restraining the respondents herein from any manner demolishing the stage constructed by the petitioner's community people in survey No.1427 of Arasoor part I Village, Sattankulam Taluk, Thoothukudi District, the land belongs to fourth day Mandagapadi Nirvagigal (4ஆம் மண்டகப்படி நிர்வாகிகள்) of Subramaniaswamy temple of Tiruchendur.

For Petitioner : Mr.S.Mani
For Respondent No.1 : Mr.P.Subbaraj
Special Government Pleader
For Respondents 2&3 : Mr.D.Sasikumar
Additional Government Pleader
For Respondent No.4 : Mr.S.Kumar

O R D E R

This writ petition has been filed for a Mandamus seeking for a direction to forbear the official respondents from in any manner demolishing the stage constructed by the petitioner's community people in Survey No.1427 of Arasoor part I Village, Sattankulam Taluk, Thoothukudi District.

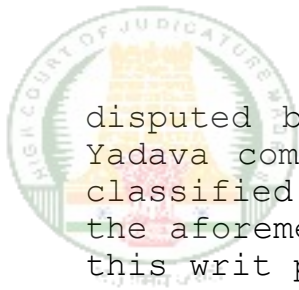


2.It is the case of the petitioner that the aforementioned land belongs to 4th day Mandagapadi Nirvagigal of Subramaniaswamy temple, Tiruchendur. It is their case that the said community people have also constructed a stage in the said property. But however, according to the petitioner, at the behest of Yadava community people which is represented by the fourth respondent herein, the aforementioned stage constructed by the petitioner's community people have been directed to be demolished by the first respondent. The petitioner has produced certain documents along with this writ petition and a copy of the patta dated 29.09.2015 for the subject property has been produced which according to the petitioner shows that the petitioner is in possession of the aforementioned property. In such circumstances, the petitioner has filed this writ petition seeking to forbear the official respondents from demolishing the stage put up in the aforementioned property.

3.A counter affidavit has been filed by the first and fourth respondents. According to the first respondent the said issue was resolved in a Peace Committee Meeting on 18.10.2021 between the two communities namely Nadar community and Yadava community that the flag post and the banner erected by Yadava community people and the stage constructed by Nadar community people which is the subject matter of this writ petition should be removed. It is also the contention of the first respondent that the Yadava community people accepted the resolution in the Peace Committee Meeting by signing the same. Thereafter, they have also removed the banner and the flag post as agreed to in the Peace Committee Meeting. However, the Nadar community people whom the petitioner represents have not removed the function stage till date.

4.The fourth respondent has also filed a counter affidavit. The fourth respondent represents the interest of the Yadava community people. According to them the land in Survey No.1427 does not belong to the 4th day Mandagapadi Nirvagigal of Subramaniaswamy temple, Tiruchendur. According to them the land is classified as a street in the revenue records. Therefore, the petitioner has no *locus standi* or legal right over the said property. It is also their case that they have complied with the resolution passed in the Peace Committee Meeting by removing the flag post and banner. It is their contention that the petitioner and his community people have encroached upon the subject land and therefore, the official respondents have rightly issued the notice to the petitioner to remove the stage constructed in Survey No.1427.

5.The petitioner claims that his community people namely the 4th day Mandagapadi Nirvagigal of Subramaniaswamy temple, Tiruchendur, are the owners of Survey No.1427 of Arasoor part I Village, Sattankulam Taluk, Thoothukudi District. However, the same is



disputed by the fourth respondent who represents the interest of Yadava community and it is their contention that the said land is classified as a street in the revenue records and does not belong to the aforementioned association for whom the petitioner represents in this writ petition.

WEB COPY

6.As seen from the affidavit filed in support of this writ petition as well as the counter affidavit filed by the first and fourth respondents, there are several disputed questions of facts involved. The first respondent has also not categorically asserted that the subject land belongs absolutely to the Association for whom the petitioner represents, namely the Nadar community. Further, the writ petition is also not filed by the association but by the petitioner in his individual capacity claiming to be the President of the 4th day Mandagapadi Nirvagigal of Subramaniaswamy temple, Tiruchendur. No board resolution has been passed by the said association in favour of the petitioner to represent their interest before this Court.

7.When there are disputed questions of fact involved which can be decided only after the oral and documentary evidence are let in by both the parties to the dispute, the only remedy available to the petitioner is to approach the Civil Court to redress his grievance if at all he has any. The disputes raised by the respondents in this writ petition are triable in nature and can be adjudicated only by the Civil Court after trial.

8.For the foregoing reasons, this writ petition is disposed of by granting liberty to the petitioner to approach the Civil Court for seeking the relief that is prayed for in this writ petition in the manner known to him under law. Since the disputed stage has not been demolished yet, *status quo* shall be maintained till **10.03.2022** to enable the petitioner to approach the Civil Court in the manner known to him under law. It is made clear that in case the petitioner does not approach the Civil Court on or before 10.03.2022, the official respondents are at liberty to demolish the subject stage without notice to the petitioner. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.D.II)

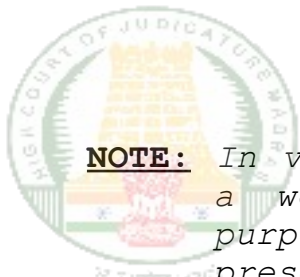
// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MR

<https://hcservices.ecourts.gov.in/hcservices/>



NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

WEB COPY

To

- 1.The President,
Arasoor Village Part I,
Sathankulam Taluk,
Thoothukudi District.
- 2.The Revenue Divisional Officer,
Thoothukudi District,
Thoothukudi.
- 3.The District Collector,
Thoothukudi District,
Thoothukudi.

+1 CC to M/s.S.KUMAR, Advocate (SR-8153[F] dated 23/02/2022)

+1 CC to M/s.S.MANI, Advocate (SR-7394[F] dated 21/02/2022)

W.P. [MD]No.19426 of 2021
21.02.2022

_RD(09.03.2022) 4P 6C