

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:07.09.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.1469 of 2015

and

M.P(MD)No.1 of 2015

Kandhasamy Chettiyar

... Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Assistant Divisional Engineer,
Highways Department,
Madurai Road, Aruppukkottai.

3.The Tahsildar,
Aruppukkottai,
Virudhunagar District.

4.K.Ramasamy Pandian

5.Muthu Gounder

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents from taking any coercive steps to lay out any road in the petitioner community's vacant land admeasuring 600 sq. ft out of 13

acres ie., comprised in S.No.286/1 in Maravar Perungudi Village, Aruppukottai Taluk, Virudhunagar District.

For Petitioner : Mr.M.Thirunavukkarasu

For Respondents : Mr.A.Baskaran
1 to 3 Additional Government Pleader

For 4thRespondent : Mr.P.Saravana Kumar

For 5thRespondent : Mr.R.Suresh Kumar
for M/s.Perfect Law Associates

ORDER

The present writ petition has been filed forbearing the respondents from taking any coercive steps to lay any road in the petitioner community's vacant land ad-measuring 600 sq.ft out of 13 acres comprised in Survey No.286/1 in Maravar Perungudi Village, Aruppukottai Taluk, Virudhunagar District.

2.According to the writ petitioner, an extent of 600 sq.ft in the above said survey No.286/1 is a Kalam, used by the general public of the said locality and the respondents 1 to 3 are attempting to lay a road in the said Kalam without resorting to acquisition proceedings. In case, if the road is laid in the said Kalam, the entire Kalam will get damaged and the petitioner and his community members will be put to great hardship.

3.The learned counsel appearing for the petitioner also brought to the notice of this Court that the village and community as plaintiff had filed a suit in O.S.No.113 of 1987, on the file of the District Munsif Court, Arupukkottai, as against the High Ways Department and the Panchayat President, for declaration that the present land in dispute belongs to the community members and for permanent injunction not to lay a road over the said land. The suit was decreed on 23.03.1989.

4.The learned counsel appearing for the petitioner also brought to the notice of the Court, another suit filed in O.S.No.400 of 2013 on the file of the District Munsif Court, Aruppukottai by the community members of the Maravar Perungudi Village as against the Government of Tamil Nadu for the relief of permanent injunction that they should not interfere in the right of the plaintiff in the enjoyment of the Kalam and other community activities. The suit was decreed on 02.03.2016.

5.The learned counsel appearing for the petitioner has further contented that only at of the instigation by the respondents 4 and 5, the respondents 1 to 3 are attempting to lay a road over the Kalam, which is a community property. Hence, he prayed for allowing the writ petition.

6.The learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that they have proposed to file an appeal as against the judgment in O.S.No.400 f 2013.

7.The learned counsel appearing for the respondents 4 and 5 has contended that they were not parties to the said suit and the said judgment is not binding upon them.

8. I have carefully considered the submission made on either side.

9.The prayer sought for in the writ petition is to forbear the official respondents from laying a road in Survey No.286/1 to an extent of 600 sq.ft, which according to the petitioner, belongs to the community and it is being used as a Kalam by the said community. The issue was twice settled by the civil Court in O.S.No.113 of 1987 and O.S.No.400 of 2013. In O.S.No.400 of 2013, the Government of Tamilnadu represented by the District collector is the fourth defendant. Hence, the said judgment is binding upon the State of Tamilnadu.

10.In view of the above said Civil Court judgments, the prayer sought for in the writ petition stands allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

07.09.2022

Index : Yes / No
Internet : Yes / No
vsg

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R.VIJAYAKUMAR ,J.

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Order made in
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