



W.P.(MD)No.22764 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 12.10.2022

CORAM

THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition (MD) No.22764 of 2022
and
W.M.P.(MD)No.16909 of 2022

Pandiaraj, S/o.Ramasamy

.. Petitioner

Versus

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The President,
Appainayakkanpatti Panchayat,
Virudhunagar District.

3.The Block Development Officer,
Virudhunagar Taluk,
Virudhunagar District.

4.S.Sekar

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to forbear the fourth respondent from laying a Thar road in S.No.214/2, situated in Appainayakkanpatti Village, Virudhunagar Taluk and District, without obtaining appropriate permission from the authorities concerned, by considering the representation of the petitioner, dated 03.09.2022.



WEB COPY



W.P.(MD)No.22764 of 2022

For Petitioner : Mr.K.Prabhu
For 1st Respondent : Mr.D.Gandhiraj
Special Government Pleader
For Respondents 2 and 3: Mr.M.Lingadurai
Special Government Pleader
For 4th Respondent : Mr.K.Dinesh

ORDER

The petitioner has prayed for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to forbear the fourth respondent from laying a Thar road in S.No.214/2, situated in Appainayakkanpatti Village, Virudhunagar Taluk and District, without obtaining appropriate permission from the authorities concerned, by considering his representation, dated 03.09.2022.

2.The case of the petitioner is that he owns lands in S.Nos.214/5A and 214/1, situated at Appainayakkanpatti Village, Virudhunagar Taluk and District. In between his agricultural lands, there is a pathway, measuring an extent of 10 feet, in S.No.214/2 and the entire Village people are using the same to access their agricultural lands. While so, all of a sudden, certain individuals started to lay gravel sand in the pathway and are proposing to lay a Thar road. After enquiry, the petitioner came to know that the fourth respondent purchased the properties of vacant agricultural land in S.Nos.

231/1, 231/2 and 231/3, measuring an extent of 19 Acres and 82 Cents. The



W.P.(MD)No.22764 of 2022

said lands are situated near the agricultural lands of the petitioner and nearby the end of the pathway. In order to boost the commercial value of his lands, without obtaining any permission from the authorities concerned, the fourth respondent has illegally made his men and agents to lay the Thar road without following the procedures.

3.The petitioner further submits that if any land is classified as a pathway in the revenue records, it is the duty of the Government to maintain the same from any kind of modification and a road can be laid only by the Government authorities by tendering the said work to private individuals after ensuring that those persons are qualified as Government Contractors. Without following any procedure, the fourth respondent, all of a sudden, is taking steps to lay a Thar road in the above said land on his own whims and fancies. In view of the said act of the fourth respondent, the agricultural activities and water flow in the said place would be affected. Hence, the petitioner sent a legal notice to the authorities to take appropriate action against the fourth respondent and also made a complaint before the Deputy Superintendent of Police, Virudhunagar District. However, no action has been taken so far. Having left with no other effective and efficacious alternative remedy, the petitioner has approached this Court by way of filing the present Writ Petition for the relief stated supra.



W.P.(MD)No.22764 of 2022

4.From the material available on record, it is seen that the second respondent/President of Appainayakkanpatti Panchayat, Virudhunagar District, has granted permission to the fourth respondent on 29.09.2022 only for repairing and maintaining the pathway and thereafter, the second respondent, vide his letter dated 03.10.2022, withdrew the said permission granted to the fourth respondent. The said order of the second respondent is without application of mind and without any authority. The second respondent cannot act on his own and if at all anybody has given a petition, it has to be placed before the concerned Council meeting and only after passing a resolution, the work can be done and without any resolution, the second respondent cannot give such permission.

5.The learned counsel appearing for the fourth respondent undertakes before this Court that the fourth respondent will restore the said pathway as it stood earlier.

6.Recording the aforesaid submission made by the learned counsel appearing for the fourth respondent, this Writ Petition is disposed of directing the fourth respondent to restore the pathway as it was earlier. No costs. Consequently, connected Miscellaneous Petition is closed.



W.P.(MD)No.22764 of 2022

7.Post the matter on **14.11.2022** under the caption 'for reporting compliance'.

Index : Yes/No
smn2

12.10.2022

To

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The President,
Appainayakkanpatti Panchayat,
Virudhunagar District.
- 3.The Block Development Officer,
Virudhunagar Taluk,
Virudhunagar District.



WEB COPY



W.P.(MD)No.22764 of 2022

V.BHAVANI SUBBAROYAN, J.

smn2

Order made in
W.P.(MD) No.22764 of 2022

12.10.2022