



W.P.No.12613 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.12613 of 2023
and
W.M.P.No.12405 of 2023

S.Shanmugam

... Petitioner

Vs.

1. The District Collector,
Erode District, Erode.

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

3. The Tahsildar,
Modakurichi Taluk,
Erode District.

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the respondents to ensure pathway to approach agricultural lands of the petitioner to an extent of 1.73 Acres in Survey No.275/4 in Punjai Kalamangalam A-Village, Modakurichi Taluk, Erode District, by considering the petitioner's representation dated 12.09.2022.



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For Petitioner : Mr.N.Palanikumar

For Respondents
(for R1 to R3) : Mr.T.Venkatesh Kumar
Special Government Pleader

ORDER

The relief sought for in the present writ petition is to direct the respondents to ensure pathway to approach agricultural lands of the petitioner to an extent of 1.73 Acres in Survey No.275/4 in Punjai Kalamangalam A-Village, Modakurichi Taluk, Erode District, by considering the petitioner's representation dated 12.09.2022.

2. The grievances of the writ petitioner is that he is the absolute owner of 1.73 acres of land in S.No.275/4 which is his ancestral property and he derived title through family partition. The petitioner is a patta holder in respect of the said property and in possession and enjoyment of the same for more than 50 years.

3. Adjacent to the patta land belonging to the petitioner, a Poramboke land, measuring about 1 acre exist. The petitioner is in possession and enjoyment of ten cents of rocky portion of the land out of 1 acre which is classified as "parai Poramboke land". The said portion was



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reclassified was reclassified as " Grama Natham".

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4. The petitioner is using the said 10 cents for the purpose of cultivation and also as pathway to reach his lands beside the burn yard. Under these circumstances, the Government Authorities are initiating steps to grant free house site patta to the homeless poor people. In the event of granting patta, the petitioner states that his right to pathway will be effected. Claiming Easementary rights, the petitioner has already instituted a suit in O.S.No.406 of 2022, on the file of the Principle District Munsif, Erode, and the suit is pending.

5. Easementary right is to be decided by way of an adjudication. High Court cannot simply direct the authorities to provide Easementary rights in the absence of establishing the same through document and evidences on records. In the event of issuing a general direction in this regard, the same would cause prejudice to the other persons who all are claiming free house patta or who are in possession of other adjacent lands. All these factors have to be considered by producing documents and evidences in the suit already instituted by the petitioner.

6. In respect of the apprehension that the pathway will be closed, the



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petitioner is at liberty to move an Interlocutory Application in the pending suit for appropriate relief in the manner known to law.

7. With these liberties, the writ petition stands **disposed of**. No costs. Consequently, connected miscellaneous petition is closed.

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes

31.07.2023

To

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Erode District, Erode.
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S.M.SUBRAMANIAM. J.,

(sha)

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