



W.P.No.12355 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.12355 of 2020
and WMP. No.15204 of 2020

P.Jayaraman @ Pulipadu Jayaraman

... Petitioner

Versus

1. The District Collector,
Thiruvallur,
Thiruvallur District.

2. The Revenue Divisional Officer
Thiruttani, Thiruvallur District.

3. The Tahsildar,
Thiruttani,
Thiruvallur District.

4. The Block Development officer,
Thiruvalankadu,
Thiruvallur District.

5. The Directorate of Village Panchayat,
Panagal Maligai,
Saidapet, Chennai District

6. Umapathy

7. The Executive Engineer,



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Highways Department, Village Roads,
Chengalpattu Division.

8. The President,
Gulur Panchayat,
Rep. by Mrs. U.Meena,
Thiruttani Taluk,
Thiruvallur District.
(R8 IMPEADED VIDE ORDER
DT 09.01.2023 MADE IN WMP.33803/2022
IN WP.12355 of 2020 by this Court)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus forbearing the 4th respondent from forming laying road in the Patta Land in comprised in Survey No. 153 now subdivided into 153 / 14B 14D 5B 14A 5A 13 14C Gulur village Thiruttani Taluk Thiruvallur District without initiating acquisition process by considering the petitioners representation dated 28.08.2020 consequently restore the agriculture land to earlier position.

For Petitioner	: Mr. S.Kumaresan
For Respondents	: Mr.Karthik Jeganath, GA RR1 to 5 & 7 Mr.V.Sridhar for R8 No appearance for R6

ORDER

This writ petition has been filed forbearing the 4th respondent from forming, laying road in the Patta Land in comprised in Survey No. 153 now subdivided into 153/14B, 14D, 5B, 14A, 5A, 13, 14C Gulur village, Thiruttani



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Taluk, Thiruvallur District without initiating acquisition process by considering the petitioners representation dated 28.08.2020 and consequently, restore the agriculture land to earlier position.

2. The case of the petitioner is that he is owning large extent of land in and around of Gulur Village in various survey numbers, one of the property adjoining to the National Highway-205, the petitioner is owning approximately 4 acres of land comprised in S.No.153 and subsequently, the same was subdivided into 153/14B, 14D, 5B, 14A, 5A, 13, 14C Gulur village, Thiruttani Taluk having patta No.1329 which was acquired by the petitioner's ancestors. On 24.02.2020, the Government have made an attempt to form a land in patta land to Mavoor Village via Erikarai. Therefore, the petitioner has made an application to the District Collector, Thiruvallur on 24.02.2020 to safeguard the petitioner's agricultural land.

3. It is the further case of the petitioner that there are proper government highways road which is used by the general public starts from National Highway-205 passing in the Kanakamma Chatram to connect Gulur Village vi. Mavoor Village having 4 Kilometers of length road approximately 23 feet



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extent which is situated 2 K.M. Away from dry land. On 25.08.2020, the Government Officials suddenly came to the petitioner's property along with Bucklin, JCB and a lorry with gravel mud and destroyed trees and also damaged the land from agricultural position. On the same day, the petitioner made a complaint before the Kanakamma chartam Police Station for illegal formation of road in the patta land of the petitioner without paying any compensation or acquisition. The police officials have advised to approach the 4th respondent. On 28.08.2020, the petitioner made an application to the respondents for illegal formation of the road in the patta land upto the lake and the said representation is not considered till date and hence, the present writ petition has been filed.

4. The third respondent filed a counter stating that originally an extent of 2.75 acres in S.No.153/5 was classified as Dry Anadeenam in Gulur Village, Tirutani Taluk as per the Pre UDR A-register. The above survey No.153/5 measuring the entire extent was assigned free of cost to the petitioners father. D-form patta was also issued to the assignee on 07.08.1979. A portion of the above assigned land has been used by the villagers of Mavoor Village for their too and fro access from their village to Chennai-Tiruttani National Highways Road. Their right of pathway in this S.No.153/5 has been protected by the condition



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imposed at Clause No.7 in the D-form assignment patta issued to the petitioner's father on 07.08.1979 by specifically safeguarding the above right for them.

During the implementation of the updating Registry Scheme in Gulur Village, the existing road in the patta lands of S.No.153/1, 153/2 and 153/5 have been sub-divided in the updating Registry Accounts and Field Measurement Book (FMB). A perusal of the entries pertaining to the above survey numbers in the Adangal for Fasali 1396 reveals that the above said survey numbers are put into use as boosthi road (Nilaviyal Road). Even if it is taken from the year of 1986, with regerence to the entries made in the Adangal of Gulur Village for Fasali 1396, the above three survey numbers have been used as road by the village of Mavoor without any interruption for the past 34 years. During this span of time, it is ascertained that metal roads were laid on the above said survey numbers for two or three times. The petitioner is well aware of the above said fact and he cannot prevent the part of the existing road previously located in survey No.153/2 and 153/5 which were classified as Dry Anadeenam at first and subsequently, assigned to the petitioner's father and the same road portion falls in new sub-divisions 153/10 and 153/13 respectively being used by the public of Mavoor Village in view of the condition No.7 imposed in the D Form assignment patta which was granted to the petitioner's father. It is further stated



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that the usage of survey number 153/8, 153/10 and 153/13 by the villagers of Mavoor as road, has not at all been objected by the assignee Duraisamy Naidu, the father of the petitioner.

6. The 7th respondent has also filed a counter stating that the averments contained in the affidavit are false and not maintainable. The Highway Department will only lay the road to the existing width of 3.75 metre as per sanctioned estimate and will not do any widening of the road on the adjacent agriculture lands. Moreover, no acquisition proceeding is necessary and strengthening the existing panchayat road. Therefore, the writ petition is not maintainable and the same is liable to be dismissed.

7. Heard the learned counsel on either side and I have perused the entire materials.

8. The facts of the case are not in dispute. It is an admitted fact that earlier an extent of 2.75 acre in S.No.153/5 was classified as Dry Anadeenam in Gulur Village, Tiruttani Taluk and subsequently, the said survey number was assigned to the petitioner's father by way of proceeding dated 09.08.1979 as free of cost. It is also an admitted fact that a portion of the above assigned land has been



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used by the villagers of Mavoor Village for their to and fro access from their village to Chennai-Tiruttani National Highways Road and the petitioner's father has not objected the same. Their right of pathway in this S.No.153/5 has been protected by the condition imposed at Clause No.7 in the D-form Assignment Patta issued to the petitioner's father on 07.08.1979 by specifically safeguarding the above right for them.

9. On a perusal of the said assignment deed, it is seen that the said assignment has been made in favour of the petitioner's father and the said assignment has been made with subject to various conditions. As per Clause-7 of the conditions in the Assignment Patta, the Government has retained the right over the existing canals and road etc., which were situated in the assignment land. On a perusal of the revenue records, particularly, A-Register relating to the said survey number shows that the area has been sub divided as road (Nilaviyal road) and the village people are using the pathway for more than 20 years. From the aforesaid, it is clear that the plan marked pathway running in a patta land is a Government land.

10. Such view of the matter, when the assignment made in favour of the petitioner's father, is also a conditional assignment and the right over the



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pathway and the road are under the control of the Government, the petitioner cannot claim absolute ownership over the same. In view of that, when the Government has proposed to lay the road only for the usage of the Mavoor Villagers, the petitioner cannot seek a direction against the respondents. In view of the above discussion, I do not find any merits in this writ petition and the same is dismissed as devoid of merit. No costs. Consequently connected miscellaneous petition is also closed.

14.02.2023

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Index : Yes/No

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N. SATHISH KUMAR, J.

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