



WEB COPY



W.P. No. 25558 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

**W.P. No. 25558 of 2023
and
W.M.P. No. 24952 of 2023**

R.Arumugam

... Petitioner

-VS-

1. The Block Development Officer
Sholavaram Block, Sholavaram
Chennai – 600 067
Tiruvallur District.

2. The Chairman
Sholavaram Panchayat Union
Sholavaram, Chennai – 600 067,
Tiruvallur District.

3. The President
Padiyanallur Village,
Ponneri Taluk
Tiruvallur District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, forbearing the Respondents from laying any road or obliterate the patta land comprised in Survey No.91/8A1, Padiyanallur Revenue Village, Ponneri Taluk, Tiruvallur District to an extent of 3.X7 square feet belonging to the Petitioner.



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For Petitioner : Mr. A.V.Arun

For Respondents : Mr. M.Alagu Gowtham, GA (RR1 & 2)

Mr. T.Sampath Kumar (R3)

ORDER

Heard Mr. A.V.Arun, Learned Counsel for the Petitioner, Mr. M.Alagu Gowtham, Learned Government Advocate appearing for the First and Second Respondents and Mr. T.Sampath Kumar, Learned Counsel appearing for the Third Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner claims to be the owner of the vacant land of an extent of 1800 sq. ft. comprised in Survey No. 91/8A1 situate in Padyanallur Village, Ponneri Taluk, Tiruvallur District. According to the Petitioner, the Respondents are laying a road by encroaching part of that property and despite representation dated 21.08.2023 made by him to the First Respondent, it has not evoked any response, which has necessitated the filing of this Writ Petition.



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3. In furtherance to the order dated 13.12.2023, the Tahsildar, Ponneri after inspection of the property has filed inspection report dated 18.12.2023 in which it has been stated as follows:-

“2. It is submitted that the land involved in this case stand in the name of the applicant as per the Village records as follows:-

Survey No.	Extent	Classification	Pattadhar Name
91/8A1	0.01.5	Manawari	7792, 1. Arumugam S/o. Rajagopal 2. Manjula S/o. Arumugam

3. It is submitted that based on the instructions received from the Government Pleader for Hon'ble High Court, Firka Surveyor has inspected the field for surveying the land and submitted the report on 12.12.2023. In this regard, Survey No.91/8A1 stands in the name of the Petitioner, whereas the road laid down by the local body does not trespass over the land of the Petitioner. It has been revealed from the survey that there is distance between the newly formed road by local body and the Petitioner's patta land is about 7.6 meters or 24 feet away.”

In view of the aforesaid explanation, which deserves acceptance, it is evident



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that the nature of relief claimed by the Petitioner falls within the realm of dispute question of fact, which cannot be effectively determined by this Court in proceedings under Article 226 of the Constitution following summary procedure. It must be recapitulated here that the Hon'ble Supreme Court of India in the decision in **Roshina T. -vs- Abdul Azeez K.T.** [(2019) 2 SCC 329] has cautioned that such claims relating to property rights would have to be answered one way or the other only in a properly framed suit impleading necessary parties before the civil court. It is needless to add here that no view has been expressed by this Court on the merits of the controversy involved.

In the result, the Writ Petition is disposed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

20.12.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 31.05.2024.

Maya

To

1. The Block Development Officer
Sholavaram Block, Sholavaram
Chennai – 600 067



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Tiruvallur District.

2. The Chairman
Sholavaram Panchayat Union
Sholavaram, Chennai – 600 067,
Tiruvallur District.

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P.D. AUDIKESAVALU, J.

Maya

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