



Order dated 06.10.2023 in
W.P.No.28259 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.28259 of 2023
and
WM.P.No.27781 of 2023

S.Damodaran

.. Petitioner

versus

1. The District Collector,
Collectors Office,
Chenglepet District.

2. The Block Development Officer,
Madhuranthagam,
Chengelpet District.

3. The Tahsildar,
Madhuranthagam,
Chengelpet District.

.. Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus to forbear the respondents from laying any pathway road to reach the burial ground on the petitioner's private patta land situated in Survey Nos.246/5B, 7A and 2C at Thadankuppam Village, Maduranthagam Taluk, Chengelpet District.



Order dated 06.10.2023 in
W.P.No.28259 of 2023

For Petitioner : Mr.V.S.Jagadeesan
For Respondent : Mr.P.Gurunathan, Addl.G.P. for RR-1 and 3
Mr.Vadivelu Deenadayalan, Addl.G.P. for R-2

ORDER

The petitioner has filed the present Writ Petition praying to forbear the respondents from laying any pathway road to reach the burial ground on the petitioner's private patta land situated in Survey Nos.246/5B, 7A and 2C at Thadankuppam Village, Maduranthagam Taluk, Chengelpet District.

2. The case of the petitioner is briefly stated hereunder:

(i) The petitioner had purchased the land in Survey Nos.246/2A, 246/5B, 246/7A, 2C and 7E, vide sale deed, dated 17.05.2007, measuring an extent of 0.16 cents, 0.17 cents and 0.15 cents, totalling 0.48 cents. The sale deed was registered, vide Document No.3441 of 2007, on the file of the Sub-Registrar Office, Madhuranthagam, Chengelpet District.

(ii) The patta and chitta adangal extract, vide patta Nos.1811, 1813, 1874 and 1875 also stand in the petitioner's name. The petitioner was informed by the villagers that the Revenue Authorities have decided to lay an approach road on the petitioner's land to reach the burial/cremation ground. After coming to know of the same, the petitioner enquired with the Revenue Authorities and they have



Order dated 06.10.2023 in
W.P.No.28259 of 2023

also confirmed the said aspect. The second and third respondents decided to form a road on the middle of the petitioner's land in Survey No.246. If the road runs through the centre of the land of the petitioner, the land will be of no use for irrigation and it may be in a triangular shape and the rest of the land will be of no use and it will be only a sewerage land. The second and third respondents, with the support of the local Panchayat, had put the gravels and sands on the petitioner's land in order to provide pathway.

(iii) Immediately, the petitioner made a representation to the first respondent on 30.08.2023 objecting to the proposal of laying road on the petitioner's land and again, on 14.09.2023, the petitioner objected to the said proposal. In the meanwhile, the petitioner was informed by the Revenue Authority that there is an order from this Court in W.P.No.30803 of 2019, dated 03.03.2020 filed by one M.Mathan Kumar, to lay an approach road to reach the burial/cremation ground situated in Survey No.210 in the Thadangkuppam Village, Maduranthagam Taluk, Kancheepuram District and thereby, according to the petitioner herein, there is a proposal to lay approach road to reach burial ground. The petitioner herein is not a party to the said W.P.No.30803 of 2019.

(iv) If the land owners were added as parties in the said Writ Petition, they would have replied their stand with regard to formation of pathway and the petitioner is also informed that a Contempt Petition in Cont.P.No.1691 of 2022 is



Order dated 06.10.2023 in
W.P.No.28259 of 2023

pending on the subject.

WEB COPY

(v) On the Western side of the petitioner's land, vacant lands are available, which are adjacent to the petitioner's land, which can be utilised for the purpose of formation of pathway without disturbing the petitioner's land for the purpose. The coloured sketch enclosed in the typed set of papers filed along with the Writ Petition, clearly establishes that the other vacant lands are available for the purpose. But with ulterior motive and on instigation of some groups of villagers, the respondents are trying to form and level the pathway on the petitioner's land.

(vi) If the authority wants to lay a pathway, they can resort to other remedies and the Government have got powers under the Land Acquisition Act to acquire the land for public purpose without resorting to any other way and by adopting legal methods and remedies available to them, and that the respondents wanted to encroach on the private land and patta land of the petitioner.

(vii) It is the stand of the petitioner that he has no other means except the agricultural land(s) referred to above. If the land(s) is/are taken away from the petitioner, without resorting to paying any compensation and without following any of the prescribed procedures laid down under the Land Acquisition Act, the petitioner will have to face hardship, as he being the only bread-winner



Order dated 06.10.2023 in
W.P.No.28259 of 2023

of his family with wife and two un-married daughters. The only source of income for the petitioner's family is the income derived from the petitioner's land and if the same is taken away from him without following any procedures, he would be put to irreparable loss/hardship. Hence, the petitioner has filed the above Writ Petition for the relief stated supra.

3. Learned counsel for the petitioner submitted that the land in question is a patta land, and therefore, if the Government wants to take the land for formation of road/pathway to the burial ground, the petitioner is ready to give the land in question through the border of the land in S.No.246, whereas, the respondents wanted to form the road on the middle of S.No.246 and if they wanted to lay the road through the middle of that circular position, it will become diametrical and it will not be useful to them and the petitioner's interest may get affected.

4. Both the learned Additional Government Pleader appearing for the respondents submitted that already, there is an existing pathway and they have also produced Field Measurement Book (FMB) sketch for Survey No.246 and for foot-path marks, and on that score, no objection is filed by the writ petitioner. However, if the Government wants to expand the foot-path and the road to



Order dated 06.10.2023 in
W.P.No.28259 of 2023

reach cremation ground, and if already all the persons except the petitioner's fourth son has expanded on the side of the foot-path, it is difficult to change their direction from the existing foot-path to expand the road. Already, the dispute raised in this Writ Petition was pending before the Division Bench of this Court in W.P.No.30803 of 2019 and the same was disposed of by the Division Bench on 03.03.2020, in which, the Division Bench granted eight weeks' time from the date of receipt of a copy of the order to clear the pathway in accordance with FMB sketch as well as village map and see to it that no more encroachment is made and the said time was granted by the Division Bench not only for carrying out the re-construction of the pathway which has been obliterated, but also to remove the encroachments, so as to facilitate the persons who have raised grievance. The Division Bench made it clear that the respondents therein should undertake the exercise of laying down proper road as directed in the order dated 03.03.2020. For not complying with the said order of the Division Bench, a Contempt Petition in Cont.P.No.1691 of 2022 is pending before this Court.

5. Heard both sides and perused the materials available on record.

6. The FMB sketch shows that the protest made by the Department shows



Order dated 06.10.2023 in
W.P.No.28259 of 2023

as if foot-path is existing and they wanted to expand the pathway to the cremation ground, though according to the learned counsel for the petitioner, some inconvenience might be caused to the petitioner and his land also will become worth-less.

7. However, considering the facts and circumstances, and taking into consideration the interest of the Government and the community, which is the paramount consideration and also taking into account the interest of the villagers, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, W.M.P. is closed.

06.10.2023

Speaking Order: Yes/ no
Index : Yes/No
Neutral Citation: Yes/No
CS

To

1. The District Collector,
Collectors Office,
Chenglepet District.
2. The Block Development Officer,
Madhuranthagam,
Chengelpet District.
3. The Tahsildar,

Pg.Nos.7/9



WEB COPY

Madhuranthagam,
Chengelpet District.



Order dated 06.10.2023 in
W.P.No.28259 of 2023



WEB COPY



Order dated 06.10.2023 in
W.P.No.28259 of 2023

P.VELMURUGAN, J

CS

W.P.No.28259 of 2023

06.10.2023

Pg.Nos.9/9