



W.P.No.31195 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.31195 of 2023

Savithri

Wife of Late Duraisamy

... Petitioner

versus

1. The District Collector
Erode District.
2. The Revenue Divisional Officer
Erode District.
3. The Revenue Tahsildar
Modakurichi Taluk, Erode District.
4. The Block Development Officer
Avalpoondurai Village Town Panchayat
Erode District.
5. The Inspector of Police
Arachalur Police Station
Erode District.
6. D.Varanasi
Sonof Deivasigamani



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7. Rogusamy
Son of Late Ramasamy
8. Selvanayagi
Wife of Late C.Thangaraju
9. S.Palanisamy
Son of Late Senniappa Gounder

...Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 to 3 to implement and enforce the order dated 29.01.2022 in O.Mu.No.259/2022/A2 of the 3rd respondent, order dated 09.08.2022 in Na.Ka.No.1298/2022/B4 of the 2nd respondent in respect of the common track comprised in R.S.No.279/5, Avalpoondurai Village, Modakurichi Taluk, Erode District.

For Petitioner	:	Mr.D.Rajagopal
For Respondents	:	Mr.Yogesh Kannadasan Special Government Pleader for R1 to R3 Mr.T.Seenivasan Special Government Pleader for R4 Mr.S.Sugendran Additional Government Pleader for R5

ORDER

This writ petition has been filed seeking for a mandamus directing the respondents 1 to 3 to implement and enforce the order dated 29.01.2022 in



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O.Mu.No.259/2022/A2 of the 3rd respondent and order dated 09.08.2022 in Na.Ka.No.1298/2022/B4 of the 2nd respondent in respect of the common track comprised in R.S.No.279/5, Avalpoondurai Village, Modakurichi Taluk, Erode District.

2. Mr.Yogesh Kannadasan, learned Special Government Pleader accepts notice for respondents 1 to 3. Mr.T.Seenivasan, learned Special Government Pleader accepts notice for fourth respondent. Mr.S.Sugendran, learned Additional Government Pleader accepts notice for fifth respondent.

3. The case of the writ petitioner is as follows:

3.1. A house property in S.No.278/2 is the ancestral property of the petitioner's husband in which the petitioner is now living. There is a common cart track / pathway leading from Arachalur to Erode Road to reach the petitioner's house which is also shown in the FMB. The said cart track / pathway is situated in R.S.No.279/5 which is the only cart track/pathway to reach the petitioner's house in Survey No.278/2 and there is no other alternative way to reach the petitioner's house. The said cart track/pathway



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comprised in Survey No.279/5 is being used both by the petitioner as well as by the respondents 6 to 10 along with others. The revenue records also shows that the cart track/pathway is situated in Survey No.279/5. The respondents 6 to 10 have their house property adjacent to the cart track/pathway which leads to the house of the petitioner. Hence, the respondents 6 to 10 started to obstruct and prohibit the petitioner from using the cart track/pathway comprised in Survey No.279/5 and prevented the petitioner from using the same to reach her house in Survey No.278/2. The petitioner's son filed a suit in O.S.No.267 of 1998 against some of the respondents seeking injunction and also claiming his right to use the cart track/pathway situated in S.No.279/5 and another suit in O.S.No.517 of 2019 seeking injunction restraining some of the respondents not to interfere with her right to use the cart track/pathway which is being used to reach the petitioner's house in Survey No.278/2.

3.2. While that being so, a complaint was lodged before the third respondent in this regard and third respondent herein conducted an enquiry and passed an order vide proceedings dated 29.01.2022 bearing



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O.Mu.No.259/2022/A2 wherein it is stated that the cart track/pathway comprised in Survey No.279/5 is common to all and the same shall not be interfered with by anyone. Further the third respondent held that the public should not be prohibited from using the cart track/pathway and the fifth respondent was directed to take appropriate legal steps if there is any violation of the order. The aforementioned proceedings dated 29.01.2022 was also confirmed by the second respondent vide proceedings dated 09.08.2022 bearing Na.Ka.No.1298/2022/B4 in a petition dated 20.01.2022 filed by the respondents 6 to 10 to take appropriate action against the third respondent herein. As against the said order dated 20.01.2022, respondents 6 to 10 have filed an appeal before the first respondent and the same was also rejected. The ultimate result is that there is a common cart track/pathway in Survey No.279/5 and the same is to be used by public without any disturbance. Despite the orders of the respondents 1 to 3, the respondents 6 to 10 are still prohibiting and obstructing the petitioner from using the common cart track/pathway comprised in Survey No.279/5 which is indirectly against the orders of the respondents 1 to 3. Hence, the petitioner filed the present writ petition to direct the respondents 1 to 3 to



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implement and enforce the orders dated 29.01.2022 in O.Mu.No.259/2022/A2 of the 3rd respondent and dated 09.08.2022 in Na.Ka.No.1298/2022/B4 of the 2nd respondent in respect of the common track comprised in R.S.No.279/5, Avalpoondurai Village, Modakurichi Taluk, Erode District.

4. Learned counsel for writ petitioner submits that though second and third respondents gave directions to the fifth respondent to implement the orders passed by them, he failed to do so.

5. This Court also heard the submissions of learned counsel appearing for official respondents.

6. A perusal of the order dated 09.08.2022 passed by the second respondent, it is seen that the appeal filed by the private respondents has been dropped, however, with a observation that all public can use the common cart track / pathway situated in Survey No.279/5. In case, if the second respondent has dismissed the appeal filed by private respondents 6



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to 10, then the order dated 29.01.2022 passed by the third respondent is confirmed which is in favour of writ petitioner but the second respondent dropped the proceedings by stating that there is no truth in the petition filed by the private respondents. While passing the order, the third respondent has stated that a cart track/pathway situated in Survey No.279/5 will be used by all public since it is a common cart track. No one should prevent the usage of pathway by others and no one should restrain any public from using the common cart track/pathway. In case, if any persons are disturbed or restrained from using the common cart track / pathway of public, then suitable proceedings can be initiated as against those persons. To be noted, the writ petitioner has not made any representation or complaint before any of the official respondents stating that she is being obstructed or restrained from using the common cart track/pathway. It is also to be noted that respondents 2 and 3 have clearly stated that the pathway situated in Survey No.275/9 is a public pathway and no one can restrain anybody from using the same. Hence, there is no material to show that the writ petitioner was obstructed or prevented from using the common cart track/pathway since she has not filed any representation or complaint before any of the



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respondents in this regard.

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7. Accordingly, this Writ Petition is dismissed. However, the writ petitioner is at liberty to work out her remedy in the manner known to law.

There shall be no order as to costs.

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Speaking/Non-speaking order

Index: Yes/No

Neutral Citation : Yes/No

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