





WA No.1013 of 2023

Govt. Advocate

For the Respondents

:: Mr.R.Bharathkumar  
for R-1

:: Mr.P.Muthukumar  
State Govt. Pleader  
assisted by Mrs.R.Anitha,  
Spl. G.P. for r-2

\* \* \* \* \*

### JUDGMENT

(Delivered by the Hon'ble Chief Justice)

The appellants assail the order passed by the learned Single Judge dated 25.10.2021. Under the said order, the learned Single Judge directed the first appellant herein to award compensation to the original writ petitioner, the first respondent herein, under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short 'the Act of 2013').

2. According to the original writ petitioner, the writ petitioner is the owner and possessor of the land in Survey No.77/5 to the extent of 54 cents. The Village Panchayat President and other persons



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attempted to trespass into the property of the writ petitioner. The writ petitioner filed a civil suit bearing O.S.No.187 of 2007. The same was decreed in favour of the original writ petitioner and another. The appellants started laying down a road in the subject property, which according to the original writ petitioner is a private patta land. The original writ petitioner has sought for the relief of injunction against the appellants herein.

3. We have heard Mr.J.Ravindran, learned Additional Advocate General for the appellants and Mr.R.Bharathkumar, learned counsel for the first respondent/original writ petitioner, so also Mr.P.Muthukumar, learned State Government Pleader for the second respondent.

4. We have perused the sale deed in favour of the original writ petitioner wherein the common right in the path was also reserved to the original writ petitioner. We may not enter into the debate as to whether the original writ petitioner has exclusive right over the said alleged pathway or has a joint right with others. The original writ petitioner has a decree of the Civil Court in his favour.



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5. According to the appellants, the road was already in existence in 2001-2002 and in the year 2007, the same was made a 'thar' road. While allowing the application for condoning the delay, the Coordinate Bench of this Court recorded the statement of the learned Additional Advocate General that the appellants would remove the thar road which the original writ petitioner claims to be laid in his land.

6. We have our own reservation as to whether the learned Single Judge could have entertained the writ petition with the relief of injunction or ought to have relegated the writ petitioner to the Civil Court. Be that as it may, the writ petition has been entertained, however, the order passed by the learned Single Judge goes beyond the petition and the relief claimed. The learned Single Judge has directed the appellants to award compensation to the original writ petitioner under the Act of 2013. Though the said order may be an equitable order, however, the present appellants did not have the



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opportunity to contest the petition qua the relief of acquisition as the petition was for simpliciter injunction. As it was undertaken by the learned Additional Advocate General while condoning the delay in filing the appeal that the appellants would restore the said land to its original position and remove the thar road, we pass the following order:-

*"The impugned order dated 25.10.2021 is set aside.  
The present appellants shall remove the thar road in the land claimed by the original writ petitioner. The same shall be removed within a period of one month from today."*

With this observation, the writ appeal is disposed of. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

**(S.V.G., CJ.)**

**(P.D.A., J.)**

**04.07.2023**

Index : Yes/No  
Neutral Citation : Yes/No

sra

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THE HON'BLE CHIEF JUSTICE  
AND  
P.D.AUDIKESAVALU, J.

(sra)

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