



W.P.(MD)No.2732 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD) No.2732 of 2023

and W.M.P.(MD)Nos.2486, 2488, 2492 of 2023

P.Saravanan

... Petitioner

Vs.

- 1.The District Collector,
Madurai District.
- 2.The Revenue Divisional Officer,
Revenue Divisional Office,
Thirumangalam, Madurai.
- 3.The Tashildar,
Thirumangalam Tahsildar Office,
Thirumangalam, Madurai.



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4.The Block Development officer,
Thirumangalam Union Office,
Thirumangalam, Madurai.

5.The Inspector of Police,
Thirumangalam Taluk Police Station,
Thirumangalam, Madurai.

6.K.Arumugam

7.M.Alagumalai

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records of the 3rd respondent proceedings relating to Na.Ka.No.Aa2/4359/2020, dated 09.06.2021 comprised in S.Nos.328/36 & 328/49, Nadukottai Village, Thirumangalam Taluk, Madurai District quash the same illegal consequently, cancel the further proceedings of 6th respondent letter No.1/2022, dated 10.11.2022.

For Petitioner : Mr.G.Sakthi Rao

For Respondents : Mr.M.Sarangan,
Addl. Government Pleader for R1 to R4
Mr.S.Manikandan,
Govt. Advocate for R5
Mr.M.Ponniah for R7



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ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, calling for the entire records of the 3rd respondent proceedings relating to Na.Ka.No.Aa2/4359/2020, dated 09.06.2021, quash the same as illegal and consequently, cancel the further proceedings of 6th respondent in letter No.1/2022, dated 10.11.2022.

2. By consent, this Writ Petition is taken up for final disposal at the admission stage itself.

3. It is the contention of the learned counsel for the petitioner that without verifying the documents and the revenue records, the third respondent by his proceedings dated 09.06.2021, has made changes in the revenue records for the purpose of formation of a pathway in the property in question and therefore, the same is liable to be quashed. It is the further contention of the petitioner that



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without following the procedure as contemplated under the Tamil Nadu Panchayat Act, 1994, the 6th respondent has issued the eviction notice and therefore, the same is liable to be set aside.

4. The learned Additional Government Pleader appearing for the respondents 1 to 4, on instructions, submitted that challenging the very same proceedings of the third respondent dated 09.06.2021, the petitioner has filed a suit in O.S.No.205 of 2022 before the District Munsif Court, Thirumangalam, for declaration to declare that the aforesaid order is null and void. The aforesaid fact has not been disclosed in the affidavit file in support of this Writ Petition and the petitioner has approached this Court with uncleaned hands. He further submitted that S.Nos.328/36 and 328/49 have been classified as public pathway and the petitioner has put up a temporary shed in the aforesaid pathway, which is obstructed the free usage of the public and he has produced some photographs to that effect. Hence, the 6th respondent has rightly issued the impugned eviction notice and therefore, this Writ Petition is liable to be dismissed.



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WEB COPY 5. We have heard the submissions made by the learned counsel appearing on either side and perused the materials available on record.

6. On a perusal of the records, it is seen that for the very same prayer in this Writ Petition, the petitioner has already filed a suit in O.S.No.205 of 2022, before the District Munsif Court, Tirumangalam, for declaration to declare that the order of the third respondent is null and void, in which the panchayat was not made as a party. The said suit is pending and there is no interim order has been granted. In the present writ petition, the petitioner has not disclosed the pendency of the said suit. Therefore, we are safely come to the conclusion that the petitioner has suppressed the material fact. Further, it is seen from the photographs that the petitioner has made encroachment in the public pathway by putting up a temporary shed and therefore, we are of the view that there is no merit in this Writ petition and hence, this Writ Petition is liable to be dismissed.



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WEB COPY 7. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.] [L.V.G., J.]
10.02.2023

NCC : Yes / No
Index : Yes / No
vsm



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