



W.P.(MD)No.11079 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.10.2023

C O R A M

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.11079 of 2021

and

W.M.P.(MD)No.8692 of 2021

K.Chellaswamy

... Petitioner

-VS-

1.The Principal Secretary to Government,
Highways and Minor Ports Department,
Fort St.George, Chennai - 9.

2.The District Collector,
Kanyakumari District, Nagercoil.

3. The Divisional Engineer,
Highways Department (C & M), Nagercoil.

4.The Project Officer,
DRDA, Nagercoil.

5.The Block Development Officer,
Kurunthencode Panchayat Union,
Kurunthencode & Post, Kanyakumari District.

6.The President,
Vellichanthai Grade I Panchayat,
Vellichanthai & Post, Kanyakumari District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from widening the west Soorapallam - Vaniyakudi Road through the Patta lands of the petitioner in R.S.No.1100/11 and R.S.No.1101/5 of Vellichanthai 'B' Village, Kalkulam Taluk, Kanyakumari District.

For Petitioner : Mr.C.T.Perumal

For Respondents : Mr.A.K.Manikkam
Special Government Pleader

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus, forbearing the respondents from encroaching upon the Patta lands belonging to the petitioners in the guise of widening the road between West Soorapallam – Vaniyakudi Road.

2. Heard Mr.C.T.Perumal, learned counsel appearing on behalf of the petitioner and Mr.A.K.Manikkam, learned Sepcial Government Pleader appearing on behalf of the respondents.

3. The case of the petitioner is that the properties in R.S.No.1100/11, measuring an extent of 5.50 Ares and R.S.No.1101/5, measuring an extent of



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6 Ares were owned by his father. The properties were thereafter inherited by the petitioner and Patta also stood in his name.

4. The further case of the petitioner is that during the year 2007, the third respondent started laying road and while doing so, an extent of 5 cents of land was encroached upon in the above said two survey numbers. The petitioner was working with the Boarder Security Force and he was not aware about this encroachment that was made by the third respondent. After the petitioner was discharged from service in the year 2010, he came to know about this encroachment. Hence, the petitioner filed W.P.(MD)No.1043 of 2013 before this Court for a direction to the respondents therein to pay compensation for the lands, which have been unauthorizedly taken over or to remove the unauthorized road that has been laid in the Patta land belonging to the petitioner to an extent of 5 cents. The said Writ Petition was disposed of by this Court, by order dated 15.04.2013, with a direction to the District Collector to deal with the representation of the petitioner and to take a decision within the time frame.



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5. Pursuant to the above order, the representation made by the petitioner was considered by the District Collector and the District Collector rejected the claim made by the petitioner and the same has been made a subject matter of challenge before this Court in W.P.(MD)No.11754 of 2017 and the same is pending.

6. The present Writ Petition has been filed before this Court on the ground that the respondents in the guise of widening the road, are attempting to encroach upon some more portions of the Patta lands belonging to the petitioner in R.S.Nos.1100/11 and 1101/5. In view of the same, the petitioner wants to forbear the respondents from encroaching upon further lands belonging to the petitioner in the guise of widening the road.

7. The third respondent has filed a counter affidavit. The third respondent has taken a stand that the road will be laid only in the existing place, where the road was available. The third respondent has denied the apprehension raised by the petitioner.



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8. The learned Special Government Pleader appearing on behalf of the respondents submitted that the apprehension raised by the petitioner is unfounded and that the respondents will only lay the road upon the place, where there was already an existing road and there is no proposal to widen the same by encroaching upon the Patta lands belonging to the petitioner.

9. In the light of the above stand taken by the third respondent, the apprehension raised by the petitioner has been sufficiently answered and it is made clear that the road will be laid by the respondents only over the place, where there was an existing road and no encroachment will be made in the remaining lands belonging to the petitioner.

10. This Writ Petition is disposed of in the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No
Index : Yes/No
smn2

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N.ANAND VENKATESH, J.

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