



W.P.(MD) No.16456 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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**DATED: 06.10.2023**

CORAM

**THE HON'BLE MR.JUSTICE N.ANAND VENKATESH**

**W.P.(MD) No.16456 of 2020**  
**and WMP(MD) No.13765 of 2020**

Ravichandran,

... Petitioner

Vs

1. The District Collector,  
Tenkasi, Tenkasi District.

2. The Tahsildar  
Thiruvengadam Taluk  
Tenkasi District

3. The Block Development Officer,  
Kuruvikulam Panchayat Union,  
Tenkasi District.

4. The Inspector of Police,  
Thiruvengadam Police Station,  
Tenkasi District.

5. Mr.Chokkaraj,  
S/o.Ganesan Chellapatti Village,  
Thiruvengadam Panchayat, Thiruvengadam  
Tk. Tenkasi District.

... Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents 1



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to 4 from laying road in the patta land bearing Survey No.344 and 346 situated in Thiruvengadam Village, Thiruvengadam Taluk, Tenkasi District

For Petitioner : Mr.RJ.Karthick

For Respondents : Mrs.D.Farjana Ghoushia

Spl. Government Pleader for R1 to R3

Mr.R.Sivakumar for R4

Government Advocate

### **ORDER**

This writ petition has been filed for a writ of mandamus forbearing the respondents from laying a road in the patta land belonging to the petitioner in S.Nos.344 and 346 situated at Thiruvengadam village, Tenkasi District

2.The case of the petitioner is that he is owning patta lands in S.Nos.344/3B, 478/1A, 344/4A, 321/3A, 321/4A, 321/4B, 344/1A, 357/3A, 357/3B and 489/2 totally measuring an extent of 9 acres. According to the petitioner, the property got vested to the family of the petitioner by virtue of the settlement dated 14.07.2011. The further case of the petitioner is that there was a channel in S.Nos.346, 347 and 344



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and the water used get collected in adjacent lands and it passes through the channel. That apart, there was also a vandipathai (cart track) in S.Nos.347, 346, 344, 353, 354 and 356, 357, 364 and 372. The cart track and the channel jointly run in S.Nos.347, 346 and 344 and the rain water used to get collected in the patta lands and it passes through the channel to the tank that is situated at S.No.347.

3. The grievance of the petitioner is that the official respondents were attempting to close the channel and to put a pucca tar road in the vandipathai. Hence, the petitioner filed W.P.(MD) No. 9341/2020 before this Court to forbear the respondents from putting up a road in the patta land belonging to the petitioner. This writ petition was disposed of by an order dated 25.08.2020 by directing the Tahsildar to consider the objection made by the petitioner and take a final decision.

4. The main grievance that has been expressed by the petitioner in this writ petition is that the respondents once again proceeded to lay a tar road in the patta land belonging to the petitioner and were also attempting to close the channel, which is the only water source and



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therefore, the present writ petition has been filed before this Court.

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5. The second respondent has filed a counter affidavit and for proper appreciation, the relevant portion in the counter affidavit is extracted hereunder:

7.It is submitted that the petitioner filed W.P.(MD) No.8341 of 2020 before the Madurai Bench of Madras High Court 'seeking for mandamus forbearing the respondents from making any road in the patta lands of 0.11.50 hectares in Survey No. 344/1A and 0.42.00 hectares in S.No.344/3B in Thiruvengadam Revenue Village in Thiruvengadam Taluk in Tenkasi Dsitriect without any land acquisition or voluntary transfer under any law.”

The Hon'ble High Court passed an order on 25.08.2020 that,

“4.In view of the above, this Court is inclined to pass the following direction:

(i) the petitioner is directed to make his objection or any representation to the second respondent/the Tahsildar within a period of two weeks from the date of receipt of a copy of this order.

(ii) Thereafter, the second respondent/the Tahsildar is directed to take a decision in accordance with law, as expeditiously as possible, after



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considering the objection or representation of the petitioner.”

As per the directions of the Hon'ble Court, on 03.09.2020 the Surveyor conducted the survey in the petitioner land and marked that in S.No.341/1A there is a pathway (nilaviyal pathai) and in S.No. 344/3B a channel (nilaviyal odai) is situated and the report sent the 2<sup>nd</sup> respondent and the 2<sup>nd</sup> respondent sent a letter dated 14.09.2020 to the 3<sup>rd</sup> respondent, stating that to form the road to the extent of 12 feet alone and further the peace committee was conducted by the 2<sup>nd</sup> respondent with other Government officials on 05.11.2020 and on that date the representative of the agriculturist decided to inform the decision on 09.11.2020. On 09.11.2020 there was no decision taken by the agriculturist and till date did not taken steps to form the road and in the meantime this petitioner filed this petition.

8.It is submitted that the petition is not maintainable law and on facts. Since it is a Government land as per the Revenue standing order No.26(15) says that,

“A plan marked channel or pathway running in a patta lad is a Government land. Eviction of encroachments in such lands need be invoked only in cases where the encroacher has



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interfered with the plan marked detailed so as to close its entrance to and exit from his lands. In the case of pathways and cart tracks which have been used by the public till recently, the ryot should not be allowed to shift the course of the details to suit his own convenience. However, such diversions of plan marked channel from its original course, with a view to consolidate his holding or to facilitate irrigation of the portions which would be otherwise severed need not be treated as encroachment.”

6. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

7. When the matter was taken up for hearing, the learned Special Government Pleader submitted that tar road has been laid in the existing pathway and that there was no encroachment upon the patta lands belonging to the petitioner. To substantiate the same, the relevant photographs were also placed before this Court.

8. Per contra, the learned counsel for the petitioner submitted



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that the petitioner cannot have any objection in the usage of the Nilaviyal pathai and whereas in the guise of utilising the same, the respondents have expanded the right and thereby had also encroached upon the patta lands belonging to the petitioner and proceeded further to lay the road and close down the channel.

9. In the considered view of this Court, the grievance expressed by the petitioner requires some enquiry to find out whether laying of the road has also encroached upon the patta land of the petitioner and also resulted in closing down the channel. If so, the petitioner will be entitled for claiming compensation. Just because the grievance expressed by the petitioner has become a fait accompli, that does not mean that the petitioner should be left high and dry without any relief.

10. In view of the above discussion, there shall be a direction to the petitioner to make a representation to the District Collector, Tenkasi along with all relevant documents and also a copy of this order. The District Collector is directed to make an independent enquiry and see if the laying of the road has resulted in encroachment upon the patta



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lands belonging to the petitioner and the closure of the water channel, if the enquiry ultimately substantiates the allegations made by the petitioner, the petitioner will be entitled for payment of compensation. On such determination, the petitioner can atleast proceed further to claim for such a compensation from the panchayat union. This process shall be completed by the first respondent after conducting an enquiry within a period of three months from the date of receipt of the representation from the petitioner.

This writ petition is disposed of with the above direction. No costs. consequently connected miscellaneous petition is closed.

**06.10.2023**

Index : Yes/No  
NCC : Yes/No  
RR



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**N.ANAND VENKATESH, J.**

**RR**

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