



W.P(MD)No.15318 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.P(MD)No.15318 of 2023
and
W.M.P(MD)No.12913 of 2023**

Nabeeza Beevi

... Petitioner

-VS-

1. The District Collector,
Ramanathapuram District.

2. The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.

3. The Thasildhar,
Ramanathapuram Taluk,
Ramanathapuram District.

4. The Special Tahsildar,
Adi Diravidar Welfare Department,
Ramanathapuram District.

5. The Head Surveyor,
Ramanathapuram Taluka,
Ramanathapuram District.

6. The Panchayat Secretary,
Peravur Panchayat,
Ramanathapuram District.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to remove the barbed wiring fencing put up on the 450 sq. feet pathway / approach road Ramanathapuram town by conducting survey and measure the land situated at Survey No.69/2A and 69/1B1A in Pattinamkathan revenue village, Ramanathapuram Taluk, by considering the petition in No.TN/RDPR/RMD/P/COLLMGDP/14NOV22/4610026 dated 14/11/2022.

For Petitioner : Mr.B.Mahendrarajan

For Respondents : Mr.P.Thilakkumar, Government Pleader

ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

The writ petition is for issuance of a Writ of Mandamus, directing the respondents to remove the barbed wire fencing put up on the 450 sq. feet pathway / approach road in Ramanathapuram Town by conducting a survey and measuring the land situated at Survey Nos.69/2A and 69/1B1A in Pattinamkathan Revenue Village, Ramanathapuram Taluk, by considering the petition in No.TN/RDPR/RMD/P/COLLMGDP/ 14NOV22/4610026 dated 14/11/2022.



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2. The petitioner is the owner of a plot in Survey No.69/1B in Pattinamkathan Revenue Village, Ramanathapuram Taluk. It is his case that an east-west pathway is in existence to have access to his property in the said survey number from the main road towards Ramanathapuram Town. It is also stated that the petitioner is using that pathway from the year 2000 onwards. Though the petitioner referred to a suit filed by one Shanmugavalli in O.S.No.67/2021, this Court finds no relevance of the said suit to the present issue and the petitioner has not produced the copy of the judgment passed in the said suit. When the parties to the said suit are not parties before this Court, this Court is unable to rely upon or to follow the judgment in the said suit to the present case. It is the grievance of the petitioner that the 3rd respondent has closed the aforesaid pathway on 23.05.2013 by fencing it along with his property.

3. In short, this Court is able to see that the petitioner is claiming his right of easement over the property of the 3rd respondent. The existence of the alleged pathway or its enjoyment by the petitioner is not established by any document or material like



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revenue records. The petitioner has submitted a representation for restoration of the pathway to the width of 15 feet by alleging that the said pathway was available previously.

4. In the writ petition, the specific case of the petitioner is that the aforesaid pathway is in existence in Survey Nos.69/2A and 69/1B1A in Pattinamkathan Revenue Village, Ramanathapuram Taluk. Even as per the revenue records, the property in Survey No. 69/2A is classified as a land allotted by the Adi-dravidar Welfare Department for common purpose and that there is no pathway therein as alleged by the petitioner. Even though the pathway is stated to be in Survey No.69/2B out of the total extent of 7.5 ares, the petitioner is unable to demonstrate before this Court how he was enjoying this 15 feet pathway to have access to his property. The properties in the neighboring survey fields are registered in the holdings of private individuals and therefore, this Court is unable to grant any relief. However, the petitioner may establish his right of easement before the civil court.



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5. Therefore, this Writ Petition is dismissed as devoid of merits. However, liberty is granted to the petitioner to approach the competent civil court and work out his remedy. No costs. Connected miscellaneous petition is closed.

[S.S.S.R, J.] [D.B.C., J.]
12.07.2023

Index : Yes / No
Neutral Citation : Yes / No
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