



W.P.(MD) No.18409 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.(MD) No.18409 of 2022

and

W.M.P(MD)No.13409 of 2022

The South Indian Manufacturing Company(Saibol)
73, Sathamangalam
Sivagangai Road,
Madurai-625 020
Partnership firm
Rep by its Partner
S.S.Subramanian

.. Petitioner

Vs.

- 1.The District Collector,
Madurai District,
Madurai-625 020
- 2.The Revenue Divisional Officer,
Collectorate,
Madurai-625 020
- 3.The Commissioner,
Madurai Corporation,
Madurai-625 002.
- 4.The Town Surveyor,
Land Survey Department,



W.P.(MD) No.18409 of 2022

Madurai Corporation,
Madurai-625 002.
5.Karthikeyan
6.R.Shanmugasundaram

... Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, forbearing the respondents 2 to 4 from removing the community gate put up for the protection of the petitioner company and other residents in Re Survey No.73 and Re-Survey No.70/2 situate in Sathamangalam, Sivagangai Main Road, Madurai Town, Madurai District, based on the instigation of 5th & 6th respondents, except by due process of law.

For Petitioner	:	Mr.M.V.Venkatashesan
For R1&R2	:	Mr.k.Balasubramani Special Government Pleader
For R3&R4	:	Mr.K.K.Kannan Standing Counsel

ORDER

This writ petition has been filed in the nature of a writ of mandamus seeking a direction against the second and fourth respondents, from removing the community gate put up by the petitioner company and also by the other residents in Re Survey No.73 and Re-survey No.70/2 situate in Santhamangalam, Sivagangai Main Road, Madurai Town, Madurai District.



W.P.(MD) No.18409 of 2022

WEB COPY

2.This Court cannot grant any injunction in favour of any party, while examining the issue under Article 226 of the Constitution of India. For grant of injunction, the petitioner has to make out a prima facie case to examine the balance of convenience and loss of hardship caused to the either side. In the writ petition, on the basis of an affidavit which is the basis seeking various reliefs and which is based on the documents produced no orders can be passed whether a particular road is a private property or not, or whether the petitioner has put up a gate in a hamlet of 65 residents.

3.It is contended by the fifth and sixth respondents that because the gate has been put up by the petitioner, it has directly affected their ingress and egress to about 20 more households. It is stated that the petitioner has not only put up a gate but has engaged a security also.

4.This country is a free country where every person has a right to go from one place to another. If this road is under the control of the Corporation of Madurai, then the Corporation should make endeavour to



W.P.(MD) No.18409 of 2022

ensure that every citizen under its control coming within its zone of jurisdiction has the right to move over every pathway without any hindrance. It is seen from the records that an order of injunction was granted, but, somehow the gate was removed and then the order was passed to restore the gate. The petitioner had been directed to go before the Civil Court and to produce the documents established title to the said land and present documents to show that the particular road is a private road for the exclusive usage of the petitioner and for nobody else.

5.The present writ petition has been filed that as on date, there is a gate. A direction is given to the third respondent/Commissioner Madurai Corporation that if that particular gate has been put up in a road which is under the control of the Corporation, to issue notice to the petitioner to remove the community gate.

6.The petitioner may move forward to file a civil suit to establish their right. The petitioner claims that the land is a ryotwari punja land. Let the issue of facts be decided in a civil forum.



W.P.(MD) No.18409 of 2022

WEB COPY

7.Of-course, there can be reasons for approaching the writ Court seeking orders being granted to survey the land. But only a decree of a Civil Court can be executed in the manner known of law.

8.The third respondent/Commissioner Madurai Corporation, may examine the classification of the land where the gate has been put up. If it is Corporation land and it is so ascertained, then issue notice to the petitioner and also receive representations of the petitioner and then if it is still decided that it is Corporation land, then remove the gate. The petitioner may file necessary documents to establish that it is their property and also approach the Civil Court to get necessary relief.

9.I am conscious that several counter affidavits and several documents and several affidavits have been filed before this Court. However, examination of the nature of the land, the title of the land, the possession of the land, are not under the purview of this Court in writ jurisdiction.



W.P.(MD) No.18409 of 2022

WEB COPY

10. In view of the above, this Writ Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

13.06.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

Ns

To

1. The District Collector,
Madurai District,
Madurai-625 020

2. The Revenue Divisional Officer,
Collectorate,
Madurai-625 020



WEB COPY



W.P.(MD) No.18409 of 2022

C.V.KARTHIKEYAN, J.

Ns

W.P.(MD) No.18409 of 2022
and
W.M.P(MD)No.13409 of 2022

Dated: 13.06.2023