

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15826 of 2015

and

M.P.(MD)Nos.1 to 3 of 2015

Rengasamy

... Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Trichy District.

2.The Tahsildar,
Manaparai Taluk,
Trichy District.

3.The Commissioner (Panchayat Administration)
Vaiyampatty Panchayat,
Vaiyampatty,
Manaparai Taluk,
Trichy District.

4.The President,
Elamanam Village Panchayat,
Manaparai Taluk,
Trichy District.

5.The Block Development Officer (Panchayat)
Vaiyampatty Panchayat,
Vaiyampatty,
Manaparai Taluk,

Trichy District.

6.Sadaiyammal
President of Ealamalam,
Ealamanam Village Panchayat,
Manaparai Taluk,
Trichy District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to impugned order dated 21.08.2015 in Na.Ka.Aa. 1/329/2015 passed by the 5th respondent and quash the same and consequently forbear the respondents from laying Thar road in the petitioners patta land in Survey Nos.122/2 and 124/ID at Ealamanam Village, Manaparai Taluk, Trichy District without taking any acquisition proceedings and without following due process of law.

For Petitioner : Mr.J.Anandkumar
for Mr.V.Meenakshisundaram

For Respondent : Mr.N.GA.Nataraj
Government Advocate for R1 to R4

: Mr.G.Prabhu Rajadurai for R6

: Mr.M.Rajarajan for R5

ORDER

Heard the learned counsel on either side.

2. The petitioner objected to the proposal of the local body from laying road across the petition mentioned survey numbers. The petitioner's objection

was overruled by the jurisdictional BDO vide proceedings dated 21.08.2015. Challenging the same, the present writ petition came to be filed.

3. This Court had appointed an advocate commissioner. The advocate commissioner inspected the site and had submitted his report.

4. The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and forbear the respondents from laying any road.

5. The learned Government Advocate as well as the learned standing counsel appearing for the local body took me through the counter affidavit filed by them and contended that the writ petition deserves summary dismissal.

6. I carefully considered the rival contentions and went through the materials on record. The prayer in writ petition is for forbearing the authorities from laying any road without due process of law. It is seen that the road had already been laid. The Writ Petition has become infructuous. I wondered if I could direct the authorities to grant compensation to the petitioner.

7. The learned counsel for the local body pointed out that though Survey No.122/2 and 124/1D belonged to the petitioner, the petitioner had alienated the entire extent in Survey No.122/2 to three persons namely Paraman, Muthukalai and Thavasi vide three sale deeds. Likewise, he had alienated his land in

Survey No.124/1D in favour of one Saroja and three others through various sale deeds. According to the respondents, the petitioner is retaining only 50 cents of a small extent of land in Survey No.124/1D. The categorical statement made by the respondents is that on the land retained by the petitioner, the road has not been laid. This statement is placed on record. Since the petitioner had subsequently alienated his land holdings, he may approach the revenue authority and get the survey numbers sub divided. If the petitioner can establish that in the land retained by him, road has been laid, it is definitely open to the petitioner to seek compensation. He can even approach this Court once again for relief.

8. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

01.09.2023

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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