



W.P.(MD)No.8538 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2023

CORAM :

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)No.8538 of 2014

and

M.P.(MD)No.1 of 2014

S.Palraj Nayakkar

... Petitioner

/Vs./

- 1.The District Collector,
Tuticorin District,
Tuticorin.
- 2.The Tahsildar,
Ettayapuram Taluk,
Tuticorin District.
- 3.The President,
Melaeral Village Panchayath,
Ettayapuram Taluk,
Tuticorin District.

4.Durairaj

5.Mukesh

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 1 to 3 to remove the obstructions put up the respondents 4 and 5 in Survey No.281/14, Melaeral Village, Kezhaeral post,



W.P.(MD)No.8538 of 2014

Ettayapuram Taluk, Tuticorin District and regularize the pathway by considering the petitioner's representation dated 13.05.2014 within the period stipulated by this Court.

For Petitioner : Mr.A.Haja Mohideen

For Respondents : Mr.M.Prakash

Additional Government Pleader (R1 & R2)

Mr.S.Pon Senthil Kumaran (R4 & R5)

No appearance (R3)

ORDER

This Writ Petition has been filed seeking for a direction to the respondents 1 to 3 to remove the obstructions put up the respondents 4 and 5 in Survey No.281/14, Melaeral Village, Kezhaeral post, Ettayapuram Taluk, Tuticorin District and regularize the pathway by considering the petitioner's representation dated 13.05.2014.

2. Heard the learned counsel appearing for the petitioner, learned Additional Government Pleader appearing for the first and second respondents and the learned Counsel for the private respondents.



W.P.(MD)No.8538 of 2014

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3. The learned counsel appearing for the petitioner would submit that the petitioner is the owner of the property in S.No.281/2, Melaeral Village, Kezhaeral post, Ettayapuram Taluk, Tuticorin District, adjacent to which, property in S.No.281/14, Melaeral Village, Kezhaeral post, Ettayapuram Taluk, Tuticorin District was being used as pathway both by the petitioner as well as the respondents 4 and 5. While so, suddenly the respondents 4 and 5 started to make construction in the property in S.No. 281/14 and on verification, it was found that they had fraudulently obtained revenue records and therefore, the petitioner had immediately made representations to the respondents 1 to 3 to prevent the respondents 4 and 5 from encroaching upon the public pathway and also to lay public road on the said land so as to enable the petitioner to have access in the said land.

4. Countering his arguments, the learned counsel appearing for the respondents 4 and 5 would submit that land in S.No.281/14 has been classified as Natham land, having possession and enjoyment for a very long time patta has been issued in their favour. Therefore, the claim of the petitioner that the land in S.No.281/14 is a poramboke land is an



W.P.(MD)No.8538 of 2014

imaginary one and wholly unjustified. Hence, the mandamus sought for in this Writ Petition cannot be granted.

5. The learned Additional Government Pleader appearing for the respondents 1 and 2 submitted a report of the Village Administrative Officer and also the copies of the revenue records, from which, it could be seen that S.No.281/14 has been classified as Natham land and that Natham patta has also been issued in favour of the respondents 4 and 5. He also submits that there is a regular pathway available to the petitioner in S.No.281/7.

6. I have considered the rival submissions made by the learned counsel for the parties and have perused the materials placed before this Court.

7. It has been brought to the notice of this Court that S.No.281/14 is classified as Natham land. Once the land has been classified as Natham, and the person, who has been in possession and enjoyment, subject to proven his possession and enjoyment, is entitled for patta. Since Natham patta has been issued in favour of the respondents 4 and 5,



W.P.(MD)No.8538 of 2014

the petitioner cannot claim any right of pathway in the said land, that too when there is exclusive pathway available to the petitioner in S.No. 281/7. Hence, Mandamus as sought for by the petitioner cannot be entertained. The Writ Petition fails and is dismissed accordingly. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

19.01.2023

NCC : Yes/No
Index : Yes/No
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Tuticorin.
- 2.The Tahsildar,
Ettayapuram Taluk,
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W.P.(MD)No.8538 of 2014

K.KUMARESH BABU, J.

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W.P.(MD)No.8538 of 2014

19.01.2023