



W.P(MD)No.2049 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.08.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.2049 of 2015

and

M.P.(MD)No.1 of 2015

E.Rajendran

... Petitioner

Vs.

**1.The Tahsildar,
Radhapuram Taluk,
Radhapuram,
Tirunelveli District.**

2.D.Muthulingam

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order of the 1st respondent Na.Ka.No. Aa8/2333/15 dated 12.02.2015 and quash the same.

For Petitioner : Mr.H.Arumugam

**For Respondent : Mr.N.Satheesh Kumar
Additional Government Pleader for R1**

: Mr.A.Arumuga for R2



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ORDER

Heard both sides.

2.The first respondent vide communication dated 12.02.2015 had called upon the petitioner to remove the gate said to have been put up on what is said to be a public pathway. Challenging the same, the present writ petition came to be filed. Interim order was granted.

3. The grievance of the petitioner is that disregarding the interim order passed by this Court, the gate was removed. The petitioner filed contempt petition. The authorities took the stand that they were not aware of the grant of interim order. This Court also came to the conclusion that the first respondent was not informed about the grant of interim order. The contempt petition was closed. Of-course, that by itself will not render the writ petition infructuous. The petitioner's counsel insists that in matters such as this, when there is a private dispute between the petitioner on the one hand and the second respondent on the other, the authority is not supposed to



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intervene. I would have sustained the said contention but for one adverse development. The petitioner had filed civil suit in O.S.No.26 of 2015 on the file of the Principal District Munsif Court, Valliyoor seeking the relief of declaration and permanent injunction. The subject matter of the suit and that of the writ petition is one and the same. The civil court had rendered a finding that pathway in question has been classified as cart track and that it does not belong to the petitioner exclusively. The suit was dismissed on 25.08.2022. The petitioner has filed A.S.No.27 of 2022 on the file of the Sub Court, Valliyoor. Since the findings of the civil Court is that the subject pathway is a public pathway, certainly, the executive authority will have power under Section 133 of Cr.P.C to intervene. The rights of the parties will abide by the outcome of the first appeal.

4. With this observation, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

07.08.2023

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

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To

The Tahsildar,
Radhapuram Taluk,
Radhapuram,
Tirunelveli District.

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