



W.P.(MD)Nos.24226 and 24478 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 31.08.2023

CORAM

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.(MD)Nos.24226 and 24478 of 2022

and

W.M.P.(MD) No.18555 of 2022 in W.P.(MD) No.24478 of 2022

W.P.(MD) No.24226 of 2022:

Tmt.Kalarani

... Petitioner

Vs.

- 1.The District Collector,
Dindigul District,
Dindigul.
- 2.Revenue Divisional Officer,
Revenue Divisional Office,
Nilakottai Taluk,
Dindigul District.
- 3.The Tahsildar,
Tahsildar Office,
Nilakottai Taluk,
Dindigul District.
- 4.The Block Development Officer,
Nilakottai Panchayath Union,
Nilakottai,
Dindigul District.



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5.The President,
Panchayath Office,
Pallapatti Village Panchayath,
Pallapatti,
Nillakottai Taluk,
Dindigul District.

6.Tmt.Pandeeswari

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in pursuance to the 4th respondent's Impugned order dated 23.09.2022 and quash the same and consequently direct the respondents 1 to 5 to restore the pathway towards the access to the petitioner's agricultural punja land in S.No.132/1 by removing the encroachment in the pathway in Government Natham Survey No. 698/8 to the extent of 0.08.14 Hectares (20 cents) at Pallapatti village, Nilakottai Taluk, Dindigul District as encroached by the 6th respondent based on the report of the 3rd respondent vide his proceedings in Na.Ka.No.550/22/4 dated 07.07.2022 by considering the petitioner's representation dated 19.09.2022.

For Petitioner : Mr.S.Selvakumar

For Respondents 1 to 4 : Mr.T.Villavankothai

For 6th Respondent : Mr.J.Anandkumar
Additional Government Pleader



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W.P.(MD) No.24478 of 2022:

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Pandeeswari

... Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Tahsildar,
Nilakottai Taluk,
Dindigul District..

3.The Block Development Officer,
Nilakottai Panchayat Union,
Dindigul District.

4.The President,
Pallapatti Village Panchayat,
Nilakottai Panchayat Union,
Dindigul District.

5.Mrs.Kalarani

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records in connection with the impugned order of the 4th respondent in Na.Ka. 002/2022 dated 20.10.2022 and quash the same and consequently forbear the respondents 1 to 4 herein from interfering the peaceful possession and enjoyment of the petitioner in UDR Sy. No.698/8 corresponding Sy. No.131/2 situate at Pallapatti Village, Nilakottai Taluk.



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For Petitioner : Mr.J.Anandkumar
For Respondents 1 to 4 : Mr.T.Villavankothai
Additional Government Pleader
For 5th Respondent : Mr.S.Selvakumar

COMMON ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

W.P.(MD) No.24226 of 2022 is filed by one Kalarani for issuance of Writ of Certiorarified Mandamus, to quash the impugned order of the 4th respondent dated 23.09.2022 and consequently to direct the respondents 1 to 5 to restore the pathway to enable the petitioner to have access to her agricultural punja land in S.No.132/1 by removing the encroachment in the pathway in Government Natham Survey No. 698/8 to the extent of 0.08.14 Hectares (20 cents) at Pallapatti village, Nilakottai Taluk, Dindigul District, as encroached by the 6th respondent based on the report of the 3rd respondent vide his proceedings in Na.Ka.No.550/22/54 dated 07.07.2022 by considering her representation dated 19.09.2022.

2. The 6th respondent in W.P.(MD) No.24226 of 2022 has filed the Writ Petition in W.P.(MD) No.24426 of 2022 to quash the impugned



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order of the 4th respondent in Na.Ka.002/2022 dated 20.10.2022 and consequently to forbear the respondents 1 to 4 from interfering with the peaceful possession and enjoyment of the petitioner in UDR Survey No. 698/8 corresponding Survey No.131/2 situate at Pallapatti Village, Nilakottai Taluk.

3. Since the Writ Petitions are connected, they are disposed of by this common order.

4. The case of the petitioner in W.P.(MD) No.24226 of 2022 is that the petitioner is entitled to use the common pathway in Survey No. 131/2 situate at Pallapatti Village, Nilakottai Taluk. Since the petitioner's right to have access to her lands in neighbouring survey numbers is affected, she has come forward with the above Writ Petition.

5. The petitioner in W.P.(MD) No.24478 of 2022 has filed the Writ Petition, challenging the order of eviction passed by the President of Pallapatti Panchayat dated 20.10.2022, directing her to remove the encroachment in the public road within seven days.



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6. The Petitioner in W.P.(MD) No.24478 of 2022 has produced before this Court “A” Register pursuant to the Settlement to show that an extent of 19 Ares in S.No.131/2 is registered in the name of Meenakshi Ammal, grand mother of petitioner's husband. The property in the neighbouring survey number viz., 134/4 is also registered in the name Meenakshi Ammal and one Malliah Gounder, who according to the petitioner are the grand parents of the petitioner's husband.

7. From the representation and the facts pleaded in the affidavits, this Court is able to see that the dispute is about the pathway, which lies in Survey No.131/2. Both the petitioners in these Writ Petitions claim joint ownership over the property in S.No.131/2. When the petitioner in W.P.(MD) No.24478 of 2022 has produced before this Court the Revenue documents to assert the title in her favour, the petitioner in the other Writ Petition in W.P.(MD) No.24226 of 2022 claims that the property in S.No.131/2 serves as a common pathway not only for the petitioner but also for the whole public.



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8. The dispute to be decided is whether it is the public road or a common road or a patta land of the petitioners in both the Writ Petitions who have common right or it is the separate property of petitioner in W.P. (MD) No.24478 of 2022. A dispute of this nature should be relegated to the civil Court and the civil Court alone is competent to decide the question of title and the character of the property.

9. In such circumstances, W.P.(MD) No.24478 of 2022 is allowed by quashing the impugned order passed by the President of Pallapatti Panchayat dated 20.10.2022 as the summary proceedings in relation to a land where the title is seriously disputed cannot be permitted. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

10. Learned counsel for the petitioner in W.P.(MD) No.24226 of 2022 disputes even the Survey Number in which the property is located. Therefore, having regard to the disputed questions of facts this Court is of the view that this dispute cannot be resolved by this Court,. The petitioner in W.P.(MD) No.24478 of 2022 claims exclusive title to



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the property in Survey No.131/2, which is the subject matter of the eviction proceedings impugned in W.P.(MD) No.24478 of 2022. Therefore, it is open to the petitioner in W.P.(MD) No.24478 of 2022 to file a civil Suit to establish her title in respect of the disputed property, which according to the petitioner, is in S.No.131/2, Pallapatti Village, Nilakottai Taluk. In the earlier civil Suit filed, it is open to the petitioner in W.P.(MD) No.24226 of 2022 to raise all the objections with regard to the character of the property. It is also open to the petitioner in W.P.(MD) No.24226 of 2022 to file a separate suit to establish the character of the property either as a public pathway or a common pathway in which she is also entitled to have access to her neighbouring properties. The civil Court shall consider the character of the property, the location of the property and any other issues that may arise in respect of the property in dispute in accordance with law when a civil suit is filed. It is also stated that the petitioner in W.P.(MD) No.24478 of 2022 has enclosed the pathway by planting trees. The trees are very young and therefore, the petitioner in W.P.(MD) No.24226 of 2022 may also file Interlocutory Applications to protect her right during the pendency of the suit.



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11. In view of the above, W.P.(MD) No.24226 of 2022 is disposed of with the above directions and observations. No costs.

[S.S.S.R., J.] [D.B.C., J.]
31.08.2023

NCC : Yes / No
Index : Yes / No
sj

To

1. The District Collector,
Dindigul District,
Dindigul.
2. The Revenue Divisional Officer,
Revenue Divisional Office,
Nilakottai Taluk,
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3. The Tahsildar,
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S.S.SUNDAR, J.

and

D.BHARATHA CHAKRAVARTHY, J.

sj

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