



W.P.(MD) No.22843 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2023

CORAM:

**THE HON'BLE MR.R.SUBRAMANIAN
and
THE HON'BLE Mrs.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) Nos.22843 of 202, 1403 and 1404 of 2022
and WMP(MD) Nos.19330/2021, 22466, 1242, 1244, 1245/2022, 17786, 22485,
22548 / 2022, 19327/2021, 1243/2022 and 17931/2022**

WP(MD) No.22843/2021

Ramesh

... Petitioner

-VS-

- 1.The District Collector
Virudhunagar District
- 2.The Tahsildar
Kariyapatti Taluk
Virudhunagar District
- 3.The Block Development Officer (VP)
O/o.Block Development Office
Kariyapatti
Virudhunagar District
- 4.The Panchayat Secretary
Arasakulam Panchayat
Kariyapatti, Virudhunagar District
- 5.The Inspector of Police,



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Aaviyur Police Station,
Virudhunagar District

6.G.Karalam

7.G.Muthukumar

8.G.Karmegam

9.G.Balakrishnan

10.S.Soliappan

11.S.Mummoorthi

12.R.Somu

13.A.Karalam

14.A.Karthi

15.Naga Chanderan

16.M.Rajendran

17.Velmurugan

... Respondents

(R6 to R17 were impleaded vide order dated 01.09.2022
in WMP (MD) No.14269/2022)

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.B3/1641/2021 dated 11.12.2021 and quash the same.



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For Petitioners : Mr.Navaneetha Raja
For Respondents : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.P.Thilakkumar
Government Pleader for R1 to R3 and R5
Mr.J.Ashok for R4
Mr.F.X.Eugene for R6 to R14
Mr.T.Lajapathi Roy
Senior counsel for R15 to R17

WP(MD) No.1403/2022

A.Karalam

... Petitioner

-vs-

- 1.The District Collector
Virudhunagar District
Virudhunagar 626002.
- 2.The Tahsildar
Kariyapatti Taluk
Kariyapatti 626 106
Virudhunagar District
- 3.The Block Development Officer (Village Panchayat)
O/o.Block Development Office
Kariyapatti 626 106
Virudhunagar District
- 4.The Secretary
Arasakulam Panchayat
Arasakulam
Kariyapatti, Virudhunagar District



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5.Naga Chanderan

6.M.Rajendran

7.Velmurugan

... Respondents

(R5 to R7 were impleaded vide order dated 01.09.2022
in WMP (MD) No.14267/2022)

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents to remove their unauthorised formation of road in the petitioner's agriculture patta lands, situated in Survey Nos.75/2A1C and 75/2A1E in Arasakulam Village, Kariyapatti Taluk, Virudhunagar District and consequently directing the respondents to award a monetary compensation of Rs.3.5 lakhs to the petitioner for the loss and damages caused to his patta lands and standing crops.

For Petitioner : Mr.F.X.Eugene
For Respondents : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.J.Ashok
Additional Government Pleader for R1 to R4
Mr.T.Lajapathi Roy
Senior counsel for R5 to R7

WP(MD) No.1404/2022

S.Mumoorthi

... Petitioner

-VS-



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1.The District Collector
Virudhunagar District
Virudhunagar 626002.

2.The Tahsildar
Kariyapatti Taluk
Kariyapatti 626 106
Virudhunagar District

3.The Block Development Officer (Village Panchayat)
O/o.Block Development Office
Kariyapatti 626 106
Virudhunagar District

4.The Secretary
Arasakulam Panchayat
Arasakulam
Kariyapatti, Virudhunagar District

5.Naga Chanderan

6.M.Rajendran

7.Velmurugan

... Respondents

(R5 to R7 were impleaded vide order dated 01.09.2022
in WMP (MD) No.14268/2022)

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents to remove their unauthorised formation of road in the petitioner's agriculture patta lands, situated in Survey Nos.75/2A1B2 in Arasakulam Village, Kariyapatti Taluk, Virudhunagar District



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and consequently directing the respondents to award a monetary compensation of Rs.3 lakhs to the petitioner for the loss and damages caused to his patta lands and standing crops.

For Petitioner : Mr.F.X.Eugene
For Respondent : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.J.Ashok
Additional Government Pleader for R1 to R4
Mr.T.Lajapathi Roy
Senior counsel for R5 to R7

COMMON ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

The dispute in this case relates to laying of a road in the land belonging to the petitioners in S.Nos.75/2A1C, 75/2A2, 75/2A1B2, 75/7, 75/2A1E and 76/1A in Arasakulam village, Kariyapatti Taluk, Virudhunagar District. While it is admitted by the revenue that the lands belong to the petitioners in these writ petitions, it is claimed that a road was laid in order to provide access to the villagers of Maniyapillai Village, since they did not have proper road and school going children found it difficult to access the main road from the said village. Earlier, by an order dated 01.09.2022, the Government was directed to acquire these lands.



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2. The fact that the predecessor in interest of the petitioners had filed a civil suit in O.S.No.248/2011 and in the said suit, a decree came to be passed restraining the District Collector and the Tahsildar from interfering with the possession of the petitioners' forefathers is admitted. A Commissioner was appointed in the said suit and he filed a report on 16.09.2015 stating that there is no detailed pathway in the land in question and the land was in possession of the petitioners' forefathers. No objections were filed to the said report. The learned Principal District Munsif, Aruppukottai decreed the suit vide his judgment and decree dated 07.09.2017. Admittedly no appeal was filed against the judgment and decree in the said suit till recently. An appeal came to be filed only in the year 2023, after the laying of the road in question.

3. Considering the above factors, the District Collector, Virudhunagar, was required to be present in Court and file an affidavit as to at whose instance, the road was laid. The District Collector, Virudhunagar, pursuant to our order, has filed an affidavit on 17.06.2023 contending that the road was laid because of the fact that the Division Bench of this Court had held that a detailed pathway



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belongs to the Government. He would also rely on Revenue Standing Orders, 26(15). The Collector's affidavit proceeds on the assumption that there was a detailed pathway in the land in question, but the Commissioner's report in O.S.No.248/2011, which remains an un objected document till date, states that there was no such detailed pathway in the suit lands and it is also claimed that the road has been laid spending a huge sum of Rs.23,40,000/- and since it is the tax payers money, it should not be disturbed. It is also claimed that in the Grama Sabha meeting held during the year 2018, a demand was placed for laying a road connecting Maniyapillai village with the Kurandi Road. The fact that the Grama Sabha has passed a resolution by itself cannot justify the action of the respondents in laying a road on a private patta land, that too, in violation of the decree granted by a civil Court. Standing crops have been damaged would show that there is no banafodes in the action of the respondents. Sadly the villagers of Maniyapillai had offered a compensation of Rs.50,000/- for the loss that has been caused to the petitioner in W.P.(MD) Nos.1403 and 1404 of 2022 and this Court has been made a party to such an illegal bargaining, by making that payment in this Court. However, since the road has already been laid, we had required the District Collector to disclose an affidavit as to whether the Government will be willing to



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acquire the land and pay the compensation. The Collector has filed an affidavit today (28.06.2023) stating that the Government is willing to acquire the lands under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. He has also assured this Court that the entire exercise should be completed within a period of four months from today.

4. Though the learned counsel for the petitioners are unwilling to accept such acquisition, since an order has been passed by this Court, even as early as on 01.09.2022, we accept the affidavit filed by the Collector with a fond hope that the District Collector, who is an officer of the Indian Administrative Service, would abide by his undertaking that has been given to this Court today. The clarification made that the acquisition will be without prejudice to the pending appeal in the Sub Court, Aruppukottai, is not acceptable to us.

5. If the Government concedes the title of the petitioners, only then, it can acquire the land. Therefore once acquisition proceedings are initiated, the appeal will automatically become infructuous. We, therefore, direct the Government to



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acquire the lands by paying the compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. We make it clear that the solatium and additional amount and interest payable under the said Act will have to be calculated from the date on which the trespass was committed by the Government over the private patta lands by laying a road. They cannot claim that the notice under Section 11 was issued subsequently and therefore, additional amount will be paid only from that date. The land acquisition proceedings shall be completed within a period of four months from today. If the land acquisition is not completed within the period of four months from today, the petitioners will be at liberty to remove the road and the revenue authorities shall not interfere in such removal. The Superintendent of Police, Virudhunagar District will provide adequate police protection to the petitioners to remove the road in the event of the acquisition not being completed within the said period of four months. The completion of acquisition would mean the payment of the entire compensation.

6. It is also seen that the petitioner in W.P.No.22843/2021 was arrested and lodged in prison for 15 days on a complaint made by the Panchayat Secretary,



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Tmt.Anusuya Sundarraaj, even during the pendency of these writ petitions in this Court. She has filed an affidavit today and she is also present in Court. But the lodging of an FIR by the Panchayat Secretary is clearly an action to threaten and browbeat the petitioner to submission. Hence, the Government will pay the compensation of Rs.3,00,000/- (Rupees three lakhs only) to the petitioner in W.P. (MD) No.22843/2021. It will be open to the Government to recover the said sum of Rs.3,00,000/- from the concerned officers, who are responsible for laying the road.

7. If the petitioners choose to challenge the land acquisition proceedings, the time line fixed will not apply. It is brought to our notice by the learned counsel for the petitioners in W.P.(MD) Nos.1403 and 1404/2022 that the road bisects the agricultural land. With a view to make it viable for cultivation, the respondents are directed to provide culverts in three or four places along the road. The petitioners will be entitled to claim severance compensation in the land acquisition proceedings.

7. The writ petitions are disposed of with the above directions. No costs.



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consequently connected Miscellaneous Petitions are closed.

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[R.S.M, J.] [L.V.G, J.]
28.06.2023

NCC : Yes / No
Index : Yes / No

RR



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R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

RR

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