

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :30.03.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.7464 of 2016
and W.M.P(MD).Nos.6272 and 10259 of 2016

V.Soumya Narayanan

... Petitioner

Vs.

The Commissioner,
Tiruchirapalli City Municipal Corporation,
Represented by its Commissioner,
Tiruchirapalli.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus forbearing the respondent, his men, agents or servants from laying road in the property in question belonged to the petitioner to an extent of 30X100=3000 Sq.Ft in T.S.No.17/A4 in Ward No.M, Block No.36, Vadavur Revenue Village, Thennur Village, Ram Nagar, Tiruchirappalli City.

For Petitioner :Mr.R.Devaraj

For Respondents :Mr.K.R.Kishore Ram
for M/s.R.B Associates

ORDER

The petitioner seeks to restrain the respondent from laying a road in the property admeasuring 3000 sq.ft in T.S.No.17/4A in Ward No.M, Block No.36, Vadavur Revenue Village, Thennur Village, Ram Nagar, Tiruchirappalli City.

2. Pursuant to the order passed by this Court, Mr.M.R.Ramesh, Junior Engineer of the respondent Corporation is present.

3. The petitioner asserts that the above mentioned property was part of a larger extent of 1.66 acres, which was owned originally by R.Ramarayar, as per the Settlement Register of the year 1930. The petitioner states that he is the grand son of V.R.Gopala Rao and that V.R.Gopala Rao is the grand son of Ramarayar.

4. According to the petitioner, his grand father created a lay out in respect of the above mentioned extent of 1.66 acres by plotting the said lands. However, it is stated that he retained the extent of 3000 sq.ft.

5. Learned counsel for the petitioner submits that this extent of 3000 sq.ft was informally reserved as a road because previously it was the access to 7th Cross Thillai Nagar. He further submits that the petitioner was constrained to approach this Court because the respondent Corporation is preventing the petitioner from putting the property to use. According to learned counsel, if the respondent wants to acquire the property, appropriate proceedings should be instituted. Even for purposes of reserving the land under a detailed development plan, learned counsel submits that Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, should be adhered to.

6. In response to these submissions, learned Standing Counsel for the Corporation submits that the petitioner's ancestors decided to form a lay out. In connection therewith, they submitted a plan. In the said plan, this plot was shown as a road. The said plan provided for 13 plots in the overall extent. The said plan was approved by the local authority at the relevant point of time under D.T.P/T.P.No.52/67. Once the relevant plot was shown

as a road in the plan submitted for approval and such plan was duly approved, learned counsel submits that the petitioner cannot assert title over the said plot. He further submits that the owners of the plots in the relevant lay out have stated that the said plot is intended for public purposes and that the petitioner is not entitled to any rights in respect of such land. Learned Standing Counsel further submits that Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, is not applicable to lands reserved for public purpose under an approved lay out plan. He also places reliance on the judgment of this Court in S.A.Nos.510 and 518 of 2019 dated 26.04.2019.

7. From the approved lay out plan placed on record by the learned Standing Counsel, it is evident that the plot which currently bears T.S.No.17/4A has been depicted as a road in such plan. Since the approved plan depicts this property as a road, the petitioner is not entitled to discretionary relief to prevent the respondent from laying a road on such plot. Learned counsel for the petitioner asserted that he has been in possession of the said land for several decades and is also entitled to assert

title by way of adverse possession. Those aspects should be dealt with by a jurisdictional civil court and not in exercise of jurisdiction under Article 226 of the Constitution of India.

8. In the facts and circumstances set out above, I am not inclined to exercise jurisdiction by issuing a Mandamus as prayed for by the petitioner. W.P(MD).No.7464 of 2016 is disposed of on the above terms. Consequently, connected W.M.P(MD).Nos.6272 and 10259 of 2016 are closed.

30.03.2023

NCC :No
Internet :Yes
Index :No
ssb

To
The Commissioner,
Tiruchirapalli City Municipal Corporation,
Represented by its Commissioner,
Tiruchirapalli.

W.P.(MD)No.7464 of 2016

SENTHILKUMAR RAMAMOORTHY, J.

ssb

W.P.(MD)No.7464 of 2016

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