



W.P.No.8072 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2024

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.8072 of 2022

and

W.M.P. Nos.8035 and 8036 of 2022

Santha

Vs

... Petitioner

1. The District Collector,
Salem District,
Salem.
2. The District Revenue Officer,
District Revenue Office,
Tiruppur.
3. The Tahsildar,
Omalur Taluk Office,
Omalur,
Salem District.
4. The Block Development Officer,
Omalur Taluk,
Omalur,
Salem District.



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5. The Village President,
Ettikuttappatti Panchayat,
Omalur Taluk,
Salem District.

6. Ragupathy

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the order No.Na.Ka.1220/2021/A1 dated 18.10.2021 passed by the third respondent and quash the same.

For Petitioner : Mr.M.N.Kathir

For Respondents : Mr.S.J.Mohamed Sathik,
Government Advocate (for R1 to R5)

ORDER

The Writ Petition has been filed challenging the order passed by the third respondent, thereby the objections raised by the petitioner by using his patta land as pathway to reach the burial ground, was rejected.

2. The case of the petitioner is that she had purchased the property from the sixth respondent herein comprised in S.No.33/4A bearing Patta No.315 of an extent of 1.45 cents situated at Ettikuttappatti Village, Omalur



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Taluk, Salem District. However, the general public are using part of the said property as “pathway” to reach the burial ground. While that being so, the third respondent is taking steps to lay the road in the said land to reach burial ground. Therefore, the petitioner raised the objection and it was not considered. The third respondent rejected the objections raised by the petitioner and also directed the authorities concerned to lay the mud road to reach the burial ground comprised in S.No.32/5, situated at Ettikuttappatti Village, Omalur Taluk, Salem District.

3. The specific contention of the petitioner is that, though the petitioner specifically raised objections not to use the patta land as pathway, the third respondent conducted enquiry, which reveals that the pathway to reach the burial ground comprised in S.Nos.32/3, 33/3, 33/4A1, 32/6A and 32/7 is situated at Ettikuttappatti Village, Omalur Taluk, Salem District. The said pathway is used by the general public for the past 70 years to reach the burial ground. As directed by the third respondent, now, the authority concerned had taken steps to lay the mud road to reach the burial ground in the above mentioned survey numbers. Therefore, the petitioner has also laid



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a suit as against the respondents in O.S.No.237 of 2021 on the file of the District Munsif Court, Omalur, Salem District and obtained interim injunction restraining the respondents from laying the road. Since it is disputed question of fact, it has to be decided only by the trial Court in the Civil Suit.

4. In view of the above, if the respondents succeed in the said Civil Suit filed by the petitioner, they are permitted to proceed with the laying of the road. Till then, the order impugned in the Writ Petition dated 18.10.2021 is directed to kept in abeyance.

5. In fine, the Writ Petition is disposed of on the aforesaid observations. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Index:Yes/No
Neutral Citation/Yes/No
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WEB COPY To

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WEB COPY



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G.K.ILANTHIRAIYAN, J.

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