



WEB COPY



W.P.No.12310 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN

THILAKAVADI

W.P.No.12310 of 2024

and

W.M.P.No.13411 of 2024

in

W.P.No.12310 of 2024

1. L.Balaji
2. S.Jayakumar
3. R.Kathikeyan

... petitioners

Vs.

1. The State of Tamil Nadu
Rep. By its Secretary to the Government
Revenue Department
Secretariat, Fort St. George
Chennai – 600 009
2. The Additional Chief Secretary / Commissioner
Land Administration
Ezhilagam, Chepauk
Chennai – 600 005
3. The District Collector

Page Nos.1/9



WP.No.12310 of 2024

Thiruvannamalai District
at Thiruvannamalai

WEB COPY

4. The District Revenue Officer
Polur
Thiruvannamalai District
5. The Tahsildar
Polur
Thiruvannamalai District
6. S.Saravanan ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relevant to the order in Mu.Mu.Aa.No.15674/2023 dated 11.08.2023 passed by the fifth respondent and quash the same as illegal, improper, unreasonable, arbitrary and against the rule of law and natural justice and thereby direct the respondents to remove the encroachment in government land situated in Survey No.296/2 classified as Kallakuttu Parai at Thindivanam Village, Polur Taluk, Thiruvannamalai District and restore the pathway used by the petitioners for ingress and egress to reach the Athimanur road.

For Petitioner : Mr.R.Surya Prakash

For Respondents : Mr.A.Selvendran
Special Government Pleader
Assisted by T.K.Saravanan



WEB COPY



WP.No.12310 of 2024

Government Advocate

ORDER

[Order of the Court was made by M.SUNDAR, J.,]

This common order will now dispose of the captioned 'Writ Petition' ['WP' for the sake of brevity] and 'Writ Miscellaneous Petition' ['WMP' for the sake of brevity] thereat.

2. An 'order dated 11.08.2023 bearing reference Mu.Mu.Aa.No.15674/2023 made by R5 (jurisdictional Tahsildar i.e., Tahsildar, Polur Taluk, Thiruvannamalai District)' [hereinafter 'impugned order' for the sake of brevity] has been called in question.

3. The grievance of the writ petitioner is that alleged impediment caused by R6 [private respondent] qua using common pathway said to be situate in Government poramboke land has not been considered favourably by R5 vide impugned order.



WEB COPY



WP.No.12310 of 2024



WP.No.12310 of 2024

4. A perusal of impugned order brings to light that R5 has proceeded on the basis that the 'A' Register does not show any common pathway (பொது பாதை). However, learned counsel for writ petitioner contends to the contrary.

5. The Statute namely 'Patta Pass Book Act, 1983 (Tamil Nadu Act 4 of 1986)' [hereinafter 'said Act' for the sake of brevity] provides for an appeal mechanism and therefore, we deem it appropriate to dispose of the captioned writ petition by ordering notice to the official respondents i.e., R1 to R5.

6. Issue notice to official respondents.

7. Mr.A.Selvendran, learned Special Government Pleader assisted by Mr.T.K.Saravanan, learned Government Advocate accepts notice for R1 to R5. Learned Special Government Pleader submits that impugned order has been made by R5 and that an appeal to the jurisdictional Revenue Divisional Officer (who has not been arrayed as a party in the writ petition) lies vide under Section 14 of said Act.



WP.No.12310 of 2024

8. Considering the nature of the contestation and disputation we are of the view that this is a matter where the writ petitioner has to seek appeal remedy under Section 14 of said Act.

9. There is a time frame of 30 days for preferring the aforementioned appeal. In the case on hand, if the writ petitioner chooses to prefer an appeal, it is open to the writ petitioner to seek / plead benefit under Section 14 of the Limitation Act, 1963 qua the period of pendency of the captioned writ petition but it is open to the Appellate Authority to consider the plea on its own merits and in accordance with law. If the writ petitioner crosses the delay barrier, the Appellate Authority shall consider the appeal on its own merits and in accordance with law untrammelled by this order as we have not expressed any view or opinion on the merits of the matter.

10. Though obvious, we also make it clear that Appellate Authority shall put R6 on notice, give an opportunity to R6 in accordance with the appeal hearing procedure before deciding the appeal. This is the safety valve we are putting in qua R6 (private respondent) as we are disposing of the



WP.No.12310 of 2024

captioned writ petition (main writ petition with consent of both sides considering the narrow scope) with notice to official respondents alone. We also make it clear that all the rights and contentions of R5 are preserved and we have not expressed any view or opinion on the same also.

Captioned writ petition disposed of in the aforesaid manner. Consequently, captioned WMP is closed. There shall be no order as to costs.

(M.S.,J.)

(K.G.T.,J.)

07.06.2024

(2/2)

Index : Yes / No

Speaking / Non-speaking

Neutral Citation : Yes / No

gpa



WP.No.12310 of 2024

To

WEB COPY

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WEB COPY



WP.No.12310 of 2024

M.SUNDAR, J.,
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K.GOVINDARAJAN THILAKAVADI, J.,

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W.P.No.12310 of 2024

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(2/2)