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W.P.No.28231 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 12.07.2024

CORAM :

**THE HONOURABLE MR.R.MAHADEVAN, ACTING CHIEF JUSTICE**  
and  
**THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ**

Writ Petition No. 28231 of 2022

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Prabakaran

.. Petitioner

Versus

1. The Collector  
Kallakurichi District  
Kallakurichi
2. The Sub-Collector  
Office of the Collectorate  
Kallakurichi District  
Kallakurichi
3. The Tahsildar  
Chinnasalem Taluk Office  
Chinnasalem  
Kallakurichi District
4. The Block Development Officer  
Chinnasalem  
Kallakurichi District
5. The Commissioner  
Chinnasalem Union Office  
Chinnasalem  
Kallakurichi



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6. The Village Administrative Officer  
Kural and Kalasamuthiram Village  
Chinnasalem Taluk  
Kallakurichi District

7. Kural Village Panchayat  
rep. by its Panchayat President  
Kural Village  
Chinnasalem Taluk  
Kallakurichi District

.. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the respondents to form a proper Tar road in Survey No.211/1, Kural Village and Survey No.88, Kalasamuthiram Village, Chinnasalem Taluk, Kallakurichi District

For Petitioner : Mr. Elangovan  
for Mr. M.P. Vairakannan

For Respondents : Mr. A. Edwin Prabhakar  
Government Pleader for RR1 to 4

### **ORDER**

(Order of the Court was made by the Hon'ble Acting Chief Justice)

The petitioner is a native of Kural Village, Chinnasalem Taluk, Kallakurichi District. He has come forward with this writ petition, in the nature of a Public Interest Litigation, seeking to issue a Writ of Mandamus directing the respondents to form a proper Tar road in the land comprised in Survey No. 211/1 in Kural Village and in the land comprised in Survey No.88, Kalasamuthiram Village, Chinnasalem Taluk, Kallakurichi District.



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2.(i) In the affidavit filed in support of the writ petition, it is stated by the petitioner that Kural Village, where he is residing, is a small Village where 25 families are residing. According to the petitioner, the entire family members in their Village are using the mud road/pathway situated in the land comprised in Survey No.211/1 having a width of 15 feet with a length of 734 feet. It is the specific plea of the petitioner that this is the only road which connects the adjacent Villages, including the Chinnasalem District Headquarters as well as the Highways. Further, it is stated that except the above road, there is no other road available for the Villagers to reach the adjacent Villages or Town. The petitioner would also state that the students are using the said road to reach their schools and colleges either through bicycle or two wheeler inasmuch as there is no transport facility made available in their Village. Further, the agricultural produces are being transported in the same road to reach the nearby Town. In both sides of the road, there are agricultural lands and to drain the water from the agricultural lands, there is one feet drainage outlet running on one side of the road in the land comprised in Survey No.88, Kalasamuthiram Village, Chinna Salem Taluk, Kallakurichi District.

(ii) The grievance of the petitioner is that during rainy season, water is getting stagnated above the road, with the result, the road could not be put to any use. Resultantly, due to inundation in the road, the Villagers are made to



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take a detour in the alternative route and thereby to travel extra mile to reach the nearby adjacent Village or Town. In fact, the School and college going students in the area are very much affected that they could not reach their institutions in time and were made to take a detour.

(iii) The petitioner would further submit that earlier one Kaliappan and Rajendran have encroached the above road and therefore, one of the Villagers by name Valli Kandan filed Writ Petition No. 4439 of 2021 before this Court for a Writ of Mandamus praying to direct the respondents therein to take action and to remove the encroachments caused by the above said duo. When the writ petition was taken up for hearing, it was represented on behalf of the official respondents that in the light of the order passed in the earlier Writ Petition No.1034 of 2020, survey and inspection of the land was caused and found that there are encroachments made in the lands comprised in S.No.88 and in S.No.211 of Kalasamudhram and Kural Villages. Pursuant to the same, action was already taken by issuing notices u/s.7 and 6 of the Tamil Nadu Land Encroachment Act, 1905. Recording the said submission, this Court disposed of the writ petition on 26.02.2021. Subsequent to the disposal of WP No.4439 of 2021, the official respondents have also removed the encroachments. However, till date, the claim of the Villagers for laying a permanent road in the aforesaid lands has not been considered. Therefore, the Villagers have jointly given representations on



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09.12.2019 and 16.04.2022 praying to lay a tar road in the aforesaid lands, but they were not considered. Subsequently, on 27.04.2022, the Village Panchayat of Kural Village passed a resolution impressing upon the need to lay a road in the land in Survey No.211/1. Following the resolution, the Village Administrative Officer, Kural Village has submitted a report dated 05.05.2022 stating that it is essential to lay a tar road in the land in Survey No.211/1 to facilitate the Villagers to reach the adjacent Villages and Town.

(iv) According to the petitioner, one Muthu of Kural Village has also filed Writ Petition No. 13804 of 2022 praying to issue a Writ of Mandamus directing the respondents therein to consider his representation and to form a road in the land in Survey No.211/1. The said writ petition was disposed of on 02.06.2022 directing the respondents therein to consider the claim of the petitioner therein. However, the respondents therein did not consider the representation of the petitioner therein and therefore, Contempt Petition No.2019 of 2022 was filed and it is pending. It is also stated that inspite of repeated representations made to the respondents, the mud road remains the same and during rainy season, it is severely inundated leaving no possibility to use it for the ingress and egress of the Villagers. Therefore, reiterating their request to lay a tar road, the petitioner has submitted a representation on 05.10.2022 to the respondents, but so far, no action has been taken. Therefore, the petitioner has come forward with this writ petition.



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3. The learned counsel appearing for the petitioner submitted that for want of road in their Village, during rainy season, the school and college going students were made to suffer. Further, the agricultural produces, including perishables items, could not be transported in time leading to severe loss to the agriculturists. It is further submitted that earlier, writ petitions were filed and directions were issued by this Court, however, those directions were not complied with. That apart, the petitioner has submitted a representation to the respondents seeking to take steps to lay a tar road in the land in Survey No. 211/1, but so far, no action has been taken thereof. Whenever a representation is given to the respondents, the respondents are duty bound to act upon it. However, in this case, in spite of directions issued by this Court in the earlier writ petition and on receipt of representation from the petitioner and other Villagers, the respondents have not taken any action. Therefore, the learned counsel for the petitioner prayed this Court to issue appropriate direction to the respondents to consider the claim of the petitioner and to lay a tar road in the lands in question, within a specified period.

4. Per contra, the learned Government Pleader appearing for the respondents submitted that earlier, one Muthu of Kural Village has filed Writ Petition No. 13804 of 2022 before this Court praying to issue a Writ of Mandamus



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directing the respondents therein to consider his representation and to form a road in the land in Survey No.211/1. The said writ petition was disposed of on 02.06.2022 directing the respondents to consider the claim of the petitioner therein. Alleging that the order dated 02.06.2022 has not been complied, a contempt Petition No.2019 of 2022 was filed. During the pendency of the said Contempt Petition, the first respondent conducted an enquiry on 06.10.2022 in which the petitioner therein participated. During such enquiry, the statement of the Revenue Tahsildar, Zonal Deputy Tahsildar, Block Development Officer and Revenue Inspector as also the Village Administrative Officer of Kural Village were recorded. The Revenue Tahsildar, Chinnasalem has stated that the land in Survey No.211/1 measuring 0.39.0 *ares* is classified as "Tharisu Poromboke" in the revenue records. As far as the the land in Survey No. 88 in Kalasamuthiram Village, Chinnasalem Taluk, Kallakurichi District is concerned, it is classified as "*odai poromboke*" (water body) in the revenue records. It is further stated that during rainy season, the excess rain water gets drained in the land in Survey No. 211/1 and this land is very essential to be maintained as such so as to get the excess rain water drained. It is also stated that the excess drain water flows through the land in Survey No. 88 in Kalasamuthiram Village, Chinnasalem Taluk, Kallakurichi District and it is essential to maintain the aforesaid lands as it is so as to ensure adequate water. Therefore, on the basis of the report of the first respondent filed in Contempt Petition No. 2019 of 2022, the learned Government



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Pleader submitted the lands in question are very much necessary for draining the excess water during rainy season and it may not be appropriate to convert these lands for laying tar road. The learned Government Pleader also submitted that the first respondent has already issued necessary instructions to the official respondents to identify a suitable land in the Village for the purpose of laying a tar road for the benefit of the Villagers and action is being taken in that regard. Therefore, the learned Government Pleader would submit that one of the lands in question namely Survey No. 88 in Kalasamuthiram Village, Chinnasalem Taluk, Kallakurichi District is classified as a water body and it cannot be converted for the purpose of laying a tar road as requested by the petitioner. With these submissions, the learned Government Pleader prayed for dismissal of the writ petition.

5. We have heard the learned counsel for the petitioner as well as the learned Government Pleader for the respondents and also perused the records.

6. The present writ petition is filed in the larger interest of public for laying a road in Kural Village to connect the adjacent Villages and Towns. It is stated that a well laid road is essential for the school and college going students to reach their educational institutions in time. Further, the perishable agricultural produces could not be transported sooner and the delay in transportation of the



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same causes huge losses to the farmers. It is needless to mention that a proper motorable road to connect the Villages with adjacent Towns and District Head Quarters is one of the basic amenities and it has to be provided by the local body. It is also stated that the mud road, which is being used by the Villagers, gets inundated during rainy season and it is not fit for being used.

7. It is seen that earlier, one Muthu of the same Village filed Writ Petition No. 13804 of 2022 praying to issue a Writ of Mandamus directing the respondents to consider his representation and to form a road in the land in Survey No.211/1. In the said writ petition, a direction was issued by this Court on 02.06.2022 to consider the claim of the petitioner therein. However, it is stated that the direction issued by this Court on 02.06.2022 has not been complied with and therefore, Contempt Petition No.2019 of 2022 came to be filed, in which, the first respondent herein has filed a report stating that the land over which tar road is sought to be laid by the petitioner therein is a water body and it is essential to protect such land to ensure that the excess water during rain season is drained. At the same time, in the very same report, the first respondent has stated that he had instructed the officials concerned to identify a land over which a road can be laid to ensure quicker connectivity between the Kural and Kalasamudram Villages, Chinna Salem Taluk, Kallakurichi District with the adjoining Towns and important periphery. Such a report was filed by the first respondent *vide* proceedings in



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Na.Ka.No.A5/12285/2022 dated 14.10.2022 in the earlier Writ Petition No.13804 of 2022 mentioned supra. The report dated 14.10.2022 has been submitted by the first respondent more than a year before. However, it is not known as to whether any other land has been surveyed, identified and earmarked for the purpose of laying a road.

8. Having regard to the fact that earlier Writ petition No.13804 of 2022 has been filed for identical relief, in which, this Court issued a direction on 02.06.2022, based on which the first respondent has passed an order in proceedings No.Na.Ka.A5/12285/2022 dated 14.10.2022 specifically observing that the subordinates have been directed to identify a land for the purpose of laying a road, we are inclined to dispose of this writ petition, directing the official respondents herein to undertake a survey and identify a land over which a road can be laid in Kural and Kalasamuthiram Villages, Chinna Salem Taluk, Kallakurichi District.

9. Accordingly, this writ petition is disposed of by directing the respondents to undertake a survey of the lands in the presence of the petitioner and others concerned and identify a land for being earmarked to lay a tar road to ensure connectivity of Kural and Kalasamuthiram Villages with the adjacent Towns. Such an exercise shall be completed by the official respondents within a



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period of three months from the date of receipt of a copy of this order. There is no order as to costs.

(R.M.D., ACJ) (M.S.Q., J)

12.07.2024

Index : Yes / No

Internet : Yes / No

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Kallakurichi District  
Kallakurichi
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**THE HON'BLE ACTING CHIEF JUSTICE**

and

**MOHAMMED SHAFFIQ, J**

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6. The Village Administrative Officer  
Kural and Kalasamuthiram Village  
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