



W.P. No. 35298 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2024

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 35298 of 2023

S.Shanmugam

... Petitioner

-VS-

1. The District Collector,
Office of the District Collector,
Ranipet District,
Ranipet.
2. The District Revenue Officer,
Office of the District Revenue Officer,
Ranipet District,
Ranipet.
3. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Arakkonam,
Ranipet District.
4. The Tahsildhar,
Office of the Tahsildhar,
Nemeli Taluk,
Ranipet District.
5. The Block Development Officer,
Office of the Block Development Officer,
Kaveripakkam,
Ranipet District.
6. The Village Administrative Officer,
Karnavoor Village Account,
Nemeli Taluk, Ranipet District.



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7. Selvi Jeeva

8. Venkatesan

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Fifth and Sixth Respondents to remove the double layer road in S. No. 6 and S. No. 7 and form a new double layer Jalli Road in S. No. 477/1C on the surface of Mud Road which was in existence in Karnavoor Village account, Nemeli Taluk, Ranipet District.

For Petitioner : Mr. A.Gouthaman

For Respondents : Mr. P.Ganesan,
Additional Government Pleader
(for R1 to R6)

Mr. M.Sarath Kumar (for R7)

ORDER

Heard Mr. A.Gouthaman, Learned Counsel for the Petitioner, Mr. P.Ganesan, Learned Additional Government Pleader appearing for the First to Sixth Respondents and Mr. M.Sarath Kumar, Learned Counsel for the Seventh Respondent and perused the materials placed on record, apart from the pleadings of the parties.



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2. It is the case of the Petitioner that the land in S.No. 477/2 in Karnavoor Village, Nemeli Taluk, Ranipet District belongs to him and that there was a mud road, i.e., *battai*, leading from Karnavoor to Vedanthangal joint through S. Nos. 477/1B, 477/1C, which ends in S.No. 477/1C touching the said land in S. No. 477/2 of that village, but while laying double layer jalli road, it was mistakenly formed in S. Nos. 6 and 7 instead of S. No. 477/1C of that village, and in such circumstances, this Writ Petition has been filed for directing the Fifth and Sixth Respondents to form a new double layer *jalli* road in S. No. 477/1C of that village on the surface of mud road, which was in existence there.

3. In furtherance to the order dated 20.02.2024 passed by this Court, the Fourth Respondent has filed Status Report dated 13.03.2024, which reads as follows:-

"3. I state that pursuant to the orders of this Hon'ble Court, this Respondent surveyed the land situated at S. No. 477/1C, Karnavoor Village Account, Nemeli Taluk, Ranipet District measuring about 0.75.5 ares. It is relevant to state that as per revenue records the said land is assessed as Road. I state that survey was conducted on 06.03.2024 and it was found that three



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persons including the Writ Petitioner had encroached the above said land. It is relevant to state that the Writ Petitioner has encroached land measuring to an extent of 0.00.59 hectares by cultivating Rice Crop, one Mr. Gurupatham had encroached land measuring to an extent of 0.00.63 hectares by cultivating rice crop and one Mr. Venkatesan had earlier encroached land measuring to an extent of 0.07.50 hectares by way of current fallows (Nadappu Tharisu).

4. I submit that since the above said is Battai, which is under the control of Rural Development Department (i.e Block Development Officer). The form I noticed has been issued by me to the Fifth Respondent who in turn issued / will issue notice to the Respondent and will take appropriate steps to remove the above referred encroachment. I am also filing the Form I notice and sketch for the kind perusal of this Court."

In view of the aforesaid explanation, which deserves acceptance, it is evident that the nature of relief claimed by the Petitioner falls within the realm of disputed questions of fact, which cannot be effectively determined by this Court



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in proceedings under Article 226 of the Constitution following summary procedure. It must be recapitulated here that the Hon'ble Supreme Court of India in the decision in *Roshina T. -vs- Abdul Azeez K.T.* [(2019) 2 SCC 329] has cautioned that such claims relating to property rights would have to be answered one way or the other only in a properly framed suit impleading necessary parties before the civil court. In such circumstances, the Petitioner has not been impeded from canvassing what is sought to be agitated in this Writ Petition in the aforesaid statutory remedy and there is no acceptable explanation from the Petitioner for not having availed it. In that view of the matter, this Court is not inclined to entertain this Writ Petition or delve into the merits of the controversy involved.

In the result, the Writ Petition is disposed with the aforesaid observations.

No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 05.06.2024.

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To

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