



W.P.No.33262 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2024

Coram

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MR.JUSTICE **K.RAJASEKAR**

W.P.No.33262 of 2024

&

W.M.P.No.36063 of 2024 in W.P.No.33262 of 2024

S.Durairaj

S/o.K.Sivaraj

.. Petitioner

vs.

1. The District Collector
Collector Office
Vengikkal
Thiruvannamalai District

2. The Tahsildar
Aarani Taluk
Thiruvannamalai District

3. The President
Rathinamangalam Panchayat
Aarani Taluk



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Thiruvannamalai District

.. Respondents

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Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of his lands comprised in Survey No.147/1, New Survey No.147/1C1A as per patta S.No.147/5 measuring an extent of 13,080 sq.ft and Nanjai Survey No.147/1C, New Survey No.147/1C1A as per patta S.No.147/6B measuring an extent of 2930 sq.ft admeasuring total extent of 16,010 sq.ft situated at Rathinamangalam Village, Arani Taluk, Thiruvannamalai District without following due process of law.

For Petitioner : Mr.R.Murali

For Respondents : Mr.M.S.Arasa Kumar
Government Advocate

ORDER

(Order of the Court was made by M.SUNDAR, J.)

Captioned writ petition has been filed with a mandamus prayer qua 'Survey No.147/1, New Survey No.147/1C1A as per patta S.No.147/5 measuring an extent of 13,080 sq.ft and Survey No.147/1C, New Survey No.147/1C1A measuring an extent of 2930 sq.ft totalling 16,010 sq.ft in all' [hereinafter 'said land' for the sake of convenience and clarity].



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2. Mr.R.Murali, learned counsel for writ petitioner submitted that said land is a private land belonging to the writ petitioner and that more particularly, the third respondent is interfering with said land qua water channel / drain attached to a road.

3. Issue notice to the respondents.

4. Mr.M.S.Arasa Kumar, learned Government Advocate accepts notice for all three respondents.

5. Learned State counsel, on instructions, submitted that local area in the village concerned, namely Sevur Village in Arani Taluk, in Thiruvannamalai District was inundated owing to heavy rains and therefore, steps were taken for draining the water. Adverting to written instructions from R2 [Tahsildar, Arani Taluk], learned State counsel submitted that writ petitioner himself undertook to ensure draining of water by way of drain attached to road and on 17.10.2024 heavy downpour caused inundation with knee level stagnation of water leading



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to clearing of the same.

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6. Owing to the limited legal perimeter within which the captioned writ petition perambulates, with the consent of learned counsel on both sides, main writ petition was taken up in the Admission Board.

7. As rightly pointed out by both sides, the Act that is applicable is 'the Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994)' [hereinafter 'TN Panchayats Act' for the sake of brevity] and the relevant provisions are Section 131(2) and Section 2(28)(c), which read as follows:

"131. Prohibition against obstructions in or over public roads, etc., (1)

(a)

(b)

(c)

(d)

(f)

(2) It shall be the duty of the Village Administrative Officer of every revenue village to report on encroachments on properties



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vested in Village Panchayats or Panchayat Union Councils to the Executive Authority or the Commissioner concerned and to the officer of the Revenue Department, and [it shall be the duty of the Executive Authority or the Commissioner concerned either suo motto or on obtaining a report from the Village Administrative Officer in this regard to institute proceedings under this Act] and secure the removal of the encroachments within such time as may be specified by the Government by general or special order. If the removal of the encroachments has not been secured within the period specified in such order, the officers of the Revenue Department shall institute proceedings under the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905) and secure such removal. '

' 2. Definitions—In this Act, unless the context otherwise requires,-

(1)

.....

.....

(28) “**public road**” means any street, road, square, court, alley, passage, cart-track, foot-path or riding-path over which the public have a right of way, whether a thoroughfare or not, an



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includes-

(a)

(b)

(c) *the drains attached to any such road, public bridge or causeway, and the land whether covered or not by any pavement, veranda, or other structure, which lies on either side of the roadway upto the boundaries of the adjacent property, whether that property is private property or property belonging to the State or Central Government;*

.....'

8. A careful perusal of sub-section (2) of Section 131 of TN Panchayats Act makes it clear that there is provision to put the writ petitioner on notice and if the needful is not done within the period specified therein, Officers of Revenue Department can initiate proceedings under 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity, convenience and clarity}. As regards the provision for draining



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of water done thus far, let *status-quo* continue and as regards further proceedings, let there be adherence to Section 131(2) of TN Panchayats Act. Learned State counsel submits that there would be adherence to Section 131(2) TN Panchayats Act. Learned State counsel submits that this procedure will be followed.

9. Recording the above submission, captioned writ petition is disposed of as closed. Consequently, captioned WMP is also disposed of.

There shall be no order as to costs.

[M.S.,J] [K.R.S.,J]

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Index: Yes/No

Neutral Citation: Yes/No

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To

1. The District Collector
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Vengikkal
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2. The Tahsildar



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Aarani Taluk
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