



**W.A.(MD) No.85 of 2024**

**WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 30.01.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR  
and  
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.A.(MD) No.85 of 2024**

**S.T.Ponnaiah**

**... Appellant/Writ Petitioner**

**-VS-**

**1.The District Collector,  
Tuticorin District,  
Tuticorin.**

**2.The Block Development Officer,  
(Village Panchayats),  
Allwarthirunagari Panchayat Union,  
Thenthiruperai,  
Thenthiruperai Post,  
Tuticorin District.**

**3.The Tahsildar,  
Sathankulam Taluk,  
Tuticorin District.**

**... Respondents/Respondents**



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**WEB COPY** Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 22.09.2023, passed in W.P.(MD) No.21206 of 2014, on the file of this Court.

For Appellant : Mr.M.P.Senthil

For Respondents : Mr.S.P.Maharajan,  
Special Government Pleader

### **J U D G M E N T**

**[Judgment of the Court was made by D.KRISHNAKUMAR, J.]**

The Writ Appeal has been filed challenging the order dated 22.09.2023, passed by the learned Single Judge in W.P.(MD) No.21206 of 2014.

2. By consent of both sides, the Writ Appeal is taken up for final disposal at the stage of admission itself.

3. According to the appellant, the property in S.Nos.81/6 and 77/10, Meerankulam II Village, Sathankulam Taluk, Tuticorin District, belongs to him. In the said property the respondent Panchayat has laid a metal road. Therefore,



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the appellant made a representation to the District Collector on 31.12.2007 to take action to remove the said road and the said request was rejected on 06.08.2013 for various reasons, including the reason that the petitioner has sold the property in S.No.81/6 to one Rajadurai for construction of house by citing the property in question as a road. Further, it is specifically stated in the said order that the Villagers are using the said property as pathway for more than 30 years and water pipe lines and electricity lines pass through the land in question. Challenging the same, the petitioner has filed the Writ Petition, which was disposed of by the learned Single Judge by giving liberty to the petitioner to approach the Civil Court, since disputed questions of fact are involved. Hence, the Writ Appeal.

4. We have considered the submissions made by learned counsel on either side and perused the materials produced before this Court.

5. The submissions of the learned counsel for the appellant is on two folds. Firstly, there is no dispute with regard to the ownership of the property in question as the revenue records stand in the name of the appellant. Secondly, if the respondent Panchayat wants the said property, they have to acquire the same



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for public purpose by paying compensation and they cannot lay the road on a private property.

6. This Court is unable to accept the submission made by the learned counsel for the appellant that there is no disputed questions of fact. According to the appellant, he has been in possession and enjoyment of the property and according to the respondents, he has permitted the villagers to use the property in question as a road, as shown in the order of the District Court, which is disputed by the appellant. These disputed facts cannot be decided by this Court under Article 226 of the Constitution of India and it has to be decided by the competent civil Court, as rightly held by the learned Single Judge. Further, if the appellant wants compensation for using the property as road, he has to approach the competent forum. Hence, we are not inclined to interfere with the order of the learned Single Judge.

7. At this juncture, the learned counsel for the petitioner stated that the observations made by the learned Single Judge will influence the civil Court and he also sought eight weeks time to approach the civil Court to establish his right.



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8. In view of the above, the Writ Appeal stands dismissed with liberty to the appellant to approach the competent civil Court, claiming his remedies, within a period of eight weeks from the date of receipt of a copy of this order. If any such suit is filed, the same shall be disposed of by the civil Court on merits and in accordance with law without being influenced by any of the observations made by the learned Single Judge. No costs.

**[D.K.K., J.]                      [R.V., J.]**

**30.01.2024**

Index : Yes / No  
Internet : Yes / No  
SJ

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