



W.P(MD)No.8836 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.8836 of 2024

and

W.M.P.(MD)No.8049 of 2024

V.Valli

... Petitioner

Vs.

1.The District Collector,
Ramanathapuram.

2.The Block Development Officer,
Kadaladi Panchayat Union,
Kadaladi, Ramanathapuram.

3.The President,
Avathandai Panchayat,
Kuruvadi,
Kadaladi Panchayat Union,
Ramanathapuram.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents from putting up any construction in front of the petitioner's housing site situated in S.No. 258/2B at Kuruvadi Village, Avathandai Group, Kadaladi Taluk, Ramanthapuram district obstructing the access to the petitioner's house from



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the Aruppukkottai Sayalkudi National Highways and consequently direct the 3rd respondent to shift the construction of bus Shelter to the nearby Poramboke land without hindrance to anyone.

For Petitioner : Mr.H.Arumugam

For Respondents : Mr.T.N.GA.Nataraj,
Government Advocate for R1 & R2.
Mr.P.Thambi Durai,
Government Advocate for R3.

ORDER

Heard both sides.

2.S.No.258/2B, Kuruvadi Village measures an extent of 5 $\frac{3}{4}$ cents. It has been settled in favour of the petitioner and her sister / Ramalakshmi vide document dated 12.10.2020 by Udaiyammal, their mother. The petitioner is aggrieved by the putting up of the bus-shelter right in front of their site. The learned counsel for the petitioner states that the bus-shelter is being put up in such a manner as to completely block their frontage.

3.I would have granted relief as prayed for, if the petitioner had approached the Court in advance.



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4.The learned Government Advocate for the third respondent submits that the construction of bus-shelter is going on. The construction works commenced some 1 ½ months back. This writ petition was filed only on 04.04.2024 and it has been taken up for final disposal today ie., 10.04.2024. The written instructions given by the third respondent to the learned Government Advocate has been made available. A sketch that has not been in scale has also been produced. It is seen therefrom that frontage to the extent of ten feet has been left to protect the pathway rights of the petitioner. Copy of the sketch produced by the respondents 2 and 3 will form part of this order.

5.The learned counsel for the petitioner however has a grievance. He points out that there has been a sort of partition between the petitioner and her sister / Ramalakshmi and that the ten feet pathway would come only in front of the plot allotted to Ramalakshmi and that the petitioner's frontage stands fully blocked.

6.The learned Government Advocate clarifies that even though in the sketch, it has been made to appear that the bus-shelter will come right in front of the petitioner's plot, actually they have left a gap of six feet between the



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petitioner' plot and the bus-shelter. Thus, the petitioner will be able to approach her plot through the ten feet pathway from Valinokkam to Aruppukottai main road and take a right and reach her site through the six feet pathway.

7.Since the petitioner's pathway rights are involved, even though the aforesaid ten feet wide pathway (East - West) and the six feet wide pathway (North – South) are on the sarkar poramboke, it is declared that they are for the exclusive and the sole use of the petitioner and her sister / Ramalakshmi and their successors in interest. In other words, on this ten feet and six feet pathway, no future construction will ever come up. On these pathways, there will not be any blockade by any person. It is the duty of the local body to ensure, if necessary with the help of police aid that on these pathways, there is no parking of vehicles by the members of general public. The petitioner and her sister are permitted to make appropriate arrangements to put up a wicket gate.

8.It is seen that a neem tree has grown. In the event of necessity, it is open to the petitioner and her sister to call upon the department to uproot the tree from the said site. The petitioner is also permitted to cause a permanent marking of these ten feet and six feet pathways.



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9.This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

10.04.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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