



REV APLW(MD).No.114 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2024

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

REV.APLW(MD)No.114 of 2024

and

W.M.P(MD)No.11824 of 2024

Koilpitchai

... Petitioner /
3rd party

Vs

1.Philips

2.Elezebeth Rani

... Respondents 1 & 2/
Petitioners 1 & 2

3.The District Collector,
Collectorate,
Kokkirakulam,
Tirunelveli – 627 009.

4.The Additional Director,
Survey & Land Records,
Collector Office Old Building,
Kokkirakulam,
Tirunelveli – 627 009.

5.The Tahsildar,
National Highways,
Nanguneri,
Tirunelveli District.

... Respondents 3 to 5/
Respondents 1 to 3



REV APLW(MD).No.114 of 2024

WEB COPY

PRAYER: Review Application filed under Order XLVII Rule 1 and 2 read with Section 141 of Civil Procedure Code to review the order dated 07.11.2023 passed in W.P(MD)No.26641 of 2023 on the file of this Court.

For Petitioner : Mr.A.Sankararamasubramanian

For Respondents : Mr.K.Balasubramani
Special Government Pleader
for R.3 to R.5

ORDER

Heard the learned counsel appearing for the review applicant and the learned Special Government Pleader appearing for the official respondents. Considering the nature of relief to be granted, issuance of notice to the respondents 1 and 2 is dispensed with.

2.The petitioner is aggrieved by the order dated 07.11.2023 made in W.P(MD)No.26641 of 2023 for conducting survey. The petitioner had raised objection and pointed out that O.S.No.147 of 2023 has been filed by the review applicant before the District Munsif Court, Nanguneri. Copy of the plaint has been enclosed in the typed set of papers. The Tahsildar was



REV APLW(MD).No.114 of 2024

clearly wrong in not passing a speaking order on the petitioner's objection.

The Tahsildar should have given six weeks breathing time to the petitioner after over-ruling the petitioner's objection. To this extent, I hold that the fifth respondent has erred in not adhering to the direction given by this Court. I initially considered initiating *suo motu* contempt action against the Tahsildar.

3. But then the learned Special Government Pleader would point out that the writ petitioners / respondents 1 and 2 herein are having patta in their names. The said patta has not been set aside or cancelled till date. It is very much holding the field. The petitioner in his suit seeks the relief of easement under the right of access. The petitioner admittedly has not obtained any injunction order against the respondents 1 and 2 in the civil Court. In any event, the petitioner cannot have any objection regarding laying of boundary stones. The learned counsel appearing for the review applicant would point out that the property has been fenced and that has seriously impacted the petitioner's right of pathway. Clause 9 of my order categorically states that my order cannot be taken advantage of putting up any fence and Police aid will not be extended to any act of fencing. If the respondents 1 and 2 have unauthorisedly put up fencing, they cannot take



REV APLW(MD).No.114 of 2024

advantage of this Court's order. It is a private issue between the review applicant on the one hand and the respondents 1 and 2 on the other.

4.It is open to the petitioner herein to file an Interlocutory Application before the jurisdictional civil Court in this regard. If any such Interlocutory Application is filed for dismantling the fence, the learned trial Munsif shall number the same immediately and dispose it of on merits and in accordance with law within a period of six weeks.

5.With this observation and clarification and liberty to the petitioner and also direction to the learned trial Munsif, this Review Application is disposed of in the condone delay stage itself. There shall be no order as to costs.

24.06.2024

Index :Yes/No
Internet:Yes/No
NCC :Yes/No
MGA

Note: Registry is directed to mark a copy of this order to the District Munsif Court, Nanguneri.



REV APLW(MD).No.114 of 2024

To

WEB COPY

1. The District Collector,
Collectorate,
Kokkirakulam,
Tirunelveli – 627 009.
2. The Additional Director,
Survey & Land Records,
Collector Office Old Building,
Kokkirakulam,
Tirunelveli – 627 009.
3. The Tahsildar,
National Highways,
Nanguneri,
Tirunelveli District.



WEB COPY



REV APLW(MD).No.114 of 2024

G.R.SWAMINATHAN, J.

MGA

REV.APLW(MD)No.114 of 2024
and
W.M.P(MD)No.11824 of 2024

24.06.2024