



WP(MD)No.16443 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE **B. PUGALENDHI**

WP (MD) No.16443 of 2023

and

WMP (MD) No.13744 of 2023

R.Sridharan

... Petitioner

Vs

1.The Commissioner,
Thoothukudi Corporation,
Thoothukudi.

2.The District Collector,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus forbearing the respondents from disturbing or interfering with the possession and enjoyment of the petitioner by laying road through the petitioner's property bearing S.No.353 situated in Meelavittan part I Villag, Thoothukudi by considering the representation of the petitioner dated 30.06.2023.



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For Petitioner : Mr.R.Sridharan
For Respondent : Mr.N.Ananda Kumar
No.1 Standing Counsel
For Respondent : Mrs.D.Farjana Ghousia
No.2 Special Government Pleader

ORDER

This writ petition has been filed seeking a mandamus to the respondents for forbearing them from laying road in the petitioner's land.

2.The case of the petitioner is that the petitioner owns a land in S.No.353 to an extent of 1.52 acres in Meelavittan Part I Village, Thoothukudi District. This property originally belonged to one Maasana Nadar and by a registered sale deed dated 09.11.1938 it was conveyed to one Muthusamy Nadar from whom one Dhanraj purchased the property by a registered sale deed dated 11.06.1971. The said Dhanraj sold the property to Yagappa Nadar in the year 1980 and after his death, his legalheirs sold the property to the petitioner's father Ramasamy by registered sale deed dated 28.11.1980. Since then the

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petitioner's father has been in possession and enjoyment of the property. The petitioner's father on 29.07.2022 has settled the said property in his favour and a portion of the property in favour of his brother. The patta for the property stands in the name of petitioner, his father and his brother in patta No.2028. The revenue records show that the property is Ryotwari Punjai Tharisu. They are also paying kist for the property. However during the UDR in the year 1985 it has wrongly been mentioned as cart track. Therefore the petitioner's father submitted an application for correcting the same and based on the application the entry was deleted. While so the adjacent land owner plotted out his land and therefore, they showed the petitioner's land as if it is an access to his land. In this regard his father filed a suit seeking permanent injunction as against the adjacent land owner and it was decreed in his favour and against the same the first appeal is pending before the Subordinate Court and there is no interim order. While so on the instigation of his adjacent land owner and his accosicates, the



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Corporation officials on 29.06.2023 attempted to enter the property and to lay the road. It is the petitioner's private land and at any point of time the land was not used as a road by the espondent Corporation. Therefore the respondent corporation has no right in the private property of the petitioner.

3.The learned Counsel for the respondent Corporation submits that the petitioner has not approached this Court with clean hands and he has suppressed the facts. In the UDR scheme also S.No.353 remained as a cart track. In the A- register and the SLR of the year 1911 it is classified as government poramboke - cart track. However the petitioner's father by suppressing the facts has managed to remove that classification in the A-register. When the Corporation attempted to lay road in the said land, the writ petitioner raised an issue that it is his private land and produced chitta, VAO certificate, present A-register and teh patta standing in his name. After his objections, the respondents verified the records and found that S.No.353 is mentioned as a



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cart track as per SLR. Therefore, the Assitant Engineer Thoothukdi lodged a complaint and based on the complaint enquiry was conducted it was found that even before UDR the land was classified as government poramboke cart track. The Sub Collector, Thoothukudi in his enquiry found that four boundaries to the said land have not been mentioned in all these sale deeds except the settlement deed and as per the UDR and SLR, the land is classified as a cart track and therefore held that the Tahsildar is a not competent authority and the Commissioner of Land Administration alone is the competent authority to issue patta for the same. Therefore the Sub Collector by his order cancelled the order of the Tahsildar, Thoothukudi passed in order No.B6/1970/1995, dated 18.07.1995 and the consequential patta transfer order No.RTR.3042/2012 dated 16.06.2018 and TR 238164 dated 09.06.2021 and further ordered to restore S.No.353 to its original position within a period of one week.

4.The learned Counsel further submits that now the road work is under progress in S.No.353 of



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Meelavittan Village and major part of the work has been completed. In the detailed development plan No.5 of the Thoothukudi Local Planning Area Meelavittan - Map No.3, the Cart Track was taken into consideration and there is an intersection of two roads in the cart track in the nature of connecting various other roads for the use of general public of Thoothukudi. The public residing in these places will be put to extreme hardship in the absence of these roads as it is a waterlogging prone area. Therefore, the learned Counsel prayed that this writ petition be dismissed.

5.This Court considered the rival submissions and perused the materials placed on record.

6.The petitioner claims that his father has purchased the property in S.No.353 to an extent of 1.52 acres from the legal heirs of one Yagappa Nadar in the year 1988 and since then the petitioner's father has been in possession and enjoyment of the property. In the year 2022, the petitioner's father



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settled the property in favour of the petitioner and his brother. He claims that patta has also been granted in favour of his father. During the UDR it has been wrongly mentioned as a cart track in the year 1985 and subsequently based on the application of the petitioner's father the mistake has been corrected. However, the respondents claiming that it is a cart track are attempting to lay road in his patta land. The respondents claim that the property in dispute is a cart track and even before the UDR in the SLR it is mentioned as government poramboke cart track. Based on the objections of the petitioner, the Sub-Collector conducted an enquiry, which revealed that the property is a cart track and patta has been granted by the Thasildar mistakenly and also without jurisdiction. Therefore, the Sub-Collector cancelled the patta and the subsequent proceedings and also directed the revenue authorities to restore property to its original position and to make entries accordingly in the relevant records.



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7. Based on the objections of the petitioner, the Sub-Collector conducted an enquiry. During the enquiry they found records showing that the property in dispute is a cart track. They have also cancelled the patta standing in the name of the petitioner and also ordered to correct the entries in the revenue records. The suit filed by the petitioner is also only against the private parties for injunction. These developments have taken place only after the decree passed in the suit and therefore, the petitioner cannot take advantage of the decree and the pattas granted in his favour. It is clear from the revenue records that it is a cart track. Therefore, the petitioner cannot have any grievance as against the respondents for laying road. Therefore, this writ petition is liable to be dismissed. Since the respondents claim that laying of road is a part of detailed development plan and it would be beneficial to the general public, they shall proceed with the work.



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8.This writ petition is dismissed. No costs.

Consequently connected miscellaneous petition is closed.

07.03.2024

To

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Thoothukudi.
- 2.The District Collector,
Thoothukudi District.



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B. PUGALENDHI , J .

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