



W.P.(MD)No.21630 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.21630 of 2024
and WMP(MD) No.18274 of 2024

Ukanth

... Petitioner

Vs

1. The District Collector,
Nagercoil,
Kanyakumari District.

2. The Revenue Divisional Officer,
District Collector Office Campus,
Nagercoil.

3. The Block Development Officer,
Perumalpuram, Kottaram,
Agastjheeswaram Taluk,
Kanyakumari District.

4. The President,
Swythoppu Panchayat,
Kanyakumari District.

5. The Village Administrative Officer,
Swamy Thoppu Village,
Agastheswaram Taluk,
Kanyakumari District.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents 1 to 3 to take action against the 4th respondent for damaging the concrete road and stealing the soil from the public road based on petitioner representation dated 25.01.2024 and order the 4th respondent to lay the road for public access and restore to its original position.

For Petitioner : Mr.P.T.Ramesh Raja

For respondents : Mr.D.Sadiq Raja (R1, R2 & R5)
Additional Government Pleader

Mr.T.Amjad Khan (R3)
Government Advocate

Mr.G.Anto Prince(R4)

ORDER

This Writ Petition has been filed seeking a direction to the respondents 1 to 3 to take action against the 4th respondent for damaging the concrete road and stealing the soil from the public road based on petitioner's representation, dated 25.01.2024 and to direct the 4th respondent to lay the road for public access and restore to its original position.

2.Heard Mr.P.T.Ramesh Raja, learned counsel appearing for the petitioner, Mr.D.Sadiq Raja, learned Additional Government Pleader appearing for R1, R2 & R5, Mr.T.Amjad Khan, learned Government Advocate appearing for R3



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and Mr.G.Anto Prince, learned counsel appearing for R4.

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3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

4.It is case of the writ petitioner that the petitioner's family property is in S.No.324/13 to an extent of 16 cents at South Thamaraikulam Village, Agastheswaram Taluk, Kanyakumari District. The said property is exactly lying adjacent to the western side of the road. Just in front of his property, the concrete road has been laid by the Government. The said road has been laid by spending huge amount from the Government money. The said road was in good condition and the houses on the eastern side of the road had good access through that road. The 4th respondent, without any permission from the Government, has removed the concrete road and dumped the concrete blocks on his property in S.No.324/13. Thereafter, he dug the fertile soil from that road and has illegally stolen the soil. Due to that, the houses adjacent to the road were denied the easy access to the road. Hence, seeks a direction against the fourth respondent.

5.It is seen from the counter filed by 4th respondent that the road in



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question was a public road maintained by the Government of Tamil Nadu and that initiatives to lay down the said road took place on the supervision of the 4th respondent under the Scheme named 'Mudhalvarin Grama Salaigal Membattu Thittam' in December, 2023. The said initiative was undertaken pursuant to a resolution passed in the Grama Sabha meeting, on 15.08.2023, signed by 225 villagers and it is decided to remove the Thar layer and prepared to lay a fresh and proper concrete road under the Central Government Funds. The petitioner was against the initiative to lay cement – concrete road. He has also denied the contention that the soil has been removed from the road. Hence, prays to dismiss the writ petition.

6.It is the contention of the learned Additional Government Pleader appearing for the respondents 1, 2 & 5 that the said work has been undertaken as per the decision taken in the Grama sabha. There is no malafide action on the part of the 4th respondent. This writ petition is filed to take a political revenge, since the writ petitioner belongs to one political party and the 4th belongs to another political party.

7.Perused the materials available on record.



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8.The fact that the waste materials placed in the petitioner's property has been removed and the same is not disputed by the petitioner. The only contention of the petitioner is that the 4th respondent has himself removed the Thar layer of road, without getting permission from the other respondents. Therefore, he sought action against the 4th respondent.

9.The very counter filed by the 4th respondent itself has indicated that the decision taken in the Grama sabha meeting to remove the Thar layer of the road also not disputed by the official respondents. Now it is also the stand of the 4th respondent that sanction has been granted to lay concrete road. In this regard, tender has also been issued and road will be laid within the stipulated period mentioned in the tender.

10.The learned counsel for the petitioner submitted that the road should be laid immediately and there shall not be any delay.

11.Since such process of laying road has already been initiated and tender also issued, the 4th respondent shall ensure that the road is properly laid. It is also to be noted that now the waste materials removed from the petitioner's land.



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In such view of the matter, as the official respondents also not disputed the stand taken by the 4th respondent, this Court feels that no further order is required in the writ petition.

12. With the above observations, this writ petition stands dismissed.

No costs. Consequently, connected miscellaneous petition is closed.

18.09.2024

NCC : Yes/No
Index : Yes/No
PNM

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ORDER IN

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