



W.P.(MD) Nos.19475 of 2024 & 31264 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD) Nos.19475 2024 and 31264 of 2023

and

W.M.P.(MD)Nos.16531 of 2024 & 26781 of 2023

K.Jeevanantham

...Petitioner in both petitions

-VS-

- 1.The District Collector,
Thanjavur District, Thanjavur.
- 2.The Revenue Divisonal Officer,
O/o.the Revenue Divisional Office,
Pattukottai, Thanjavur District.
- 3.The Tahsildar,
Peravurani Taluk Office,
Peravurani Taluk, Thanjavru District.
- 4.The Revenue Inspector
Aavanam Firka, Peravurani Taluk,
Thanjavur District.
- 5.The Village Administrative Officer,
Enathi Karambai Village and Post,
Peravurani Taluk, Thanjavur District.
- 6.The Inspector of Police,
Thiruchitrampalam Police Station,

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Peravurani Taluk, Thanjavur District.

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7.Muthukumar

...Respondents in both petitions

PRAYER in W.P.(MD)No.19475 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus, to calling for the records pertaining to the Impugned Order passed by the 2nd respondent vide his proceedings in Mu.Mu.No. 2807/2024/A3 dated 29.07.2024 and quash the same as illegal and consequently forbearing the respondents no. 2 to 6 to lay the road in the petitioners own property comprised in old Survey no. 4/6, New Survey no. 4/6B for an extent of 9 cents sitauted at Enathi Karambai Village and Post, Peravurani Taluk, Thanjavur District.

PRAYER in W.P.(MD)No.31264 of 2023: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus, forbearing the respondents no.2 to 6 to lay the road in respect of the petitioners property comprised in Old Survey No.4/6, New Survey No. 4/6B for an extent of 9 cents situated at Enathi Karampai Village and Post, Peravurani Taluk, Thanjavur District and for other reliefs.

In both petitions:

For Petitioner	: Mr.A.C.Asaithambi
For R1 to R5	: Mr.A.Kannan Additional Government Pleader
For R6	: Mr.Vaikkam Karunanithi (Government Advocate (Crl.side))



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For R7

: Mr.M.P.Senthil

COMMON ORDER

The petitioner has filed the writ petition in W.P.(MD)No.19475 of 2024 challenging the order passed by the second respondent for forming a road in the petitioner's property on the basis of the representation given by the seventh respondent.

2.W.P.(MD)No.31264 of 2023 was filed to forbear the respondent from laying a road in the property of the petitioner in Survey No.4/6 at Enathi Karampai Village and post, Peravurani Taluk, Thanjavur District.

3.Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader for the official respondents 1 to 5, learned Government Advocate for the sixth respondent and the learned counsel for the seventh respondent.

4.Since the issue raised in these writ petitions are one and the same, both the writ petitions are taken up together, heard and disposed of

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by way of this common order.
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5.It is the case of the petitioner that the land in Survey No.4/6 is the land belongs to the petitioner and he is in possession and enjoyment of the said property by fencing the same. The seventh respondent, who is the adjacent land owner had sent a representation to the respondent seeking pathway to reach his land. Based on the same, the petition was called upon for enquiry. Though the petitioner has submitted a detailed objection by way of representation, the authorities concerned colluding with the seventh respondent tried to lay the road in the patta land of the petitioner. Hence, the petitioner filed a writ petition in W.P.(MD)No. 31264 of 2023 to forbear the respondents from laying road in the land belonging to the petitioner. During the pendency of the said writ petition, the second respondent based on the representation of the seventh respondent has issued an order to lay the road temporarily in the land belonging to the petitioner.

6.The learned counsel for the petitioner submitted that the seventh respondent is the adjacent land owner of the petitioner. The petitioner and the seventh respondent are having separate pathway to reach their



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respective lands. However, the seventh respondent with a view to encroach upon the petitioner's property tried to lay pathway in the land belonging to the petitioner. He further submitted that when the writ petition filed by the petitioner to forbear the authorities concerned from laying any road in the property of the petitioner, the second respondent had issued the order to form a temporary road in the land of the petitioner, which is impugned in this writ petition.

7.The learned counsel for the seventh respondent submits that the pathway through the petitioner's property is only the pathway to reach the land of the seventh respondent and there is no other pathway to reach his land. Hence, he seeks to grant permission to the authorities concerned to lay the road.

8.The primary dispute raised in these writ petitions is with regard to the easementary right claimed by the seventh respondent over the land in possession of the petitioner. The said right cannot be decided by this Court exercising the power conferred under Article 226 of the Constitution of India. It is for the parties to establish their right before



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the Civil Court and not by way of giving representations or filing writ petitions before this Court. Whether the seventh respondent is having any easmentary right over the properties of the petitioner or not is a matter of pleadings and evidence, which has to be proved only before the Civil Court by letting proper pleadings and evidence. Bypassing the said procedure, mere submissions of representations before the revenue officials would not serve any purpose to determine the civil rights of the parties.

9.In view of the above, the writ petition in W.P.(MD)No.19475 of 2024 is allowed by setting aside order passed by the second respondent in Mu.Mu.No.2807/2024/A3 dated 29.07.2024 and the writ petition in W.P.(MD)No.31264 of 2023 stands dismissed. The parties are directed to agitate their rights by filing an appropriate civil suit before the competent civil Court. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes / No

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2023*

N.SATHISH KUMAR, J.

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