



W.P.(MD) No.24225 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.07.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD)No.24225 of 2018

Rajabrathan, S/o.M.Selvaraj

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

3.The Inspector of Police,
Panagudi Police Station,
Tirunelveli District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus, directing the respondents to remove the police check post building, constructed in front of his property admeasuring 101.38 sq. mt. in Survey No.1948/B2 at Kavalkinaru Junction, Perunkudi Village, Radhapuram Taluk, Tirunelveli District, thereby obstructing his access to the Nagercoil- Kanyakumari Main Road from the petitioner's above property by considering the petitioner's representation dated 19.04.2018.



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W.P.(MD) No.24225 of 2018

For Petitioner	: No Appearance
For R1	: Mr.G.Suriyananth Additional Government Pleader
For R2 and R3	: Mr.A.Albert James Government Advocate (Criminal side)

ORDER

There is no representation on behalf of the petitioner.

2. This Writ Petition has been filed by the petitioner to remove the check post building constructed in front of his property, measuring an extent of 101.38 sq.mt. in Survey No.1948/B2 at Kavalkinaru Junction, Perunkudi Village, Radhapuram Taluk, Tirunelveli District.

3. The second respondent, namely, the Superintendent of Police, Tirunelveli District, has filed a status report dated 04.04.2024, wherein it has been stated as follows:-

"3. I submit that even though the Check Post is situated at the junction of Kavalkenaru, the petitioner's property is behind to the check post and the check post is not constructed to obstruct the petitioner's free access as alleged in the affidavit.

4. I further humbly submit that the said Check Post has been constructed in the year of 1994 and not



W.P.(MD) No.24225 of 2018

as alleged by the petitioner that the check post has been constructed to prevent the access of the petitioner to the high way and the check post is also not been constructed with the encroachment of any piece of the land of the petitioner.

5. I humbly submit that the Check Post is not obstructing the entire building of the petitioner and the present place of the check post is the only available and exact place for the police checking.

6. I humbly submit the check post is situated in the prime place of the inter district connecting junction; the check post is functioning for checking vehicle for violations, Crime Prevention for deterring activities like chain snatching, drug trafficking, smuggling etc. Enforcement of Laws such as verifying compliance with various laws and regulations such as seat belt usage, vehicle registration etc., and therefore this check post has been typically arranged at this location for effective Policing.

7. I humbly submit that the Police is conducting vehicle check at this check post to prevent smuggling of minerals from mines, preventing movement of high speed vehicles for preventing road traffic accidents and other illegal activities.

8. I humbly submit there is no alternative place for shifting the Check Post for the above said purposes of checking.

9. I further submit that the Check Post is functioning from the year of 1994 and the petitioner also knows that fact very well."



W.P.(MD) No.24225 of 2018

4. The learned Additional Government Pleader for the first respondent submits that the check post is situated on the Government land, which has been classified as land belonging to the Highways Department and that the location is strategic for carrying out search of vehicles passing from Tirunelveli to Nagercoil.

5. The third respondent has filed a sketch, wherein it has been stated that the property of the petitioner has been stated as vacant land [காலி இடம்].

6. The learned Government Advocate (Criminal side) for the respondents 2 and 3 would submit that the check post has been in place at the said location from 1994 and therefore, there is no justification in the prayer of the petitioner for removal of the check post.

7. I have considered the arguments advanced by the learned Additional Government Pleader for the first respondent and the learned Government Advocate (Criminal side) for the respondents 2 and 3.



W.P.(MD) No.24225 of 2018

8. It appears that the petitioner has given a representation dated 19.04.2018, which has not evoked any response from the respondents.

The Photograph that has been filed by the petitioner indicate that the petitioner's property is located right behind the check post put up by the respondents.

9. In my view, the State cannot usurp the frontage of the petitioner's property although for legal purpose for enforcing the law. If the respondents want to utilise the above said space for their check post purpose, it is always open for them to acquire the land from the petitioner or in the alternative, take the property on lease from the petitioner.

10. The State cannot be seen defeating the rights of its citizens. Although the check post is located on the land belonging to the State Highways Department, nevertheless, the location of the check post indicates that it compromised the frontage of the petitioner's property and thereby, putting the petitioner to disadvantage. Under these circumstances, I direct the respondents to locate an alternative site for the check post within a period of three months from today or in the alternative, take steps for leasing out the backside of the property of the



W.P.(MD) No.24225 of 2018

petitioner from him or take steps to acquire the property from the petitioner on payment of compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

11. This Writ Petition stands disposed of with the above observation. No costs.

Index : Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
smn2

04.07.2024

To

- 1.The District Collector,
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W.P.(MD) No.24225 of 2018

C.SARAVANAN, J.

smn2

W.P.(MD) No.24225 of 2018

04.07.2024