



W.P.(MD) No.22470 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.10.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.22470 of 2024

Saraswathi

.. Petitioner

Vs.

1.The District Collector,
Tuticorin District.

2.The Tahsildar,
Kovilpatti,

3.The Block Development Officer,
Kovilpatti.

4.The President,
Kilavipatti Panchayat,
Kovilpatti, Tuticorin District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents No. 3 and 4 to remove the road laid on the house site comprising in Survey No.171/1, Kilavipatti Village, Kovilpatti Panchayat Union, Tuticorin and prevent him from encroaching the land belongs to the petitioner without acquiring the land of the petitioner under the Right to Fair Compensation



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and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 based on the representation dated 02.09.2024.

For Petitioner : Mr.V.Kalichamy

For Respondents : Mr.B.Saravanan
Additional Government Pleader

ORDER

The petitioner has filed this writ petition for the following relief:

“For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue a writ, order or direction or any other writ in the nature of a WRIT OF MANDAMUS directing the respondent No.3 and 4 to remove the road laid on the house site comprising in Survey No. 171/1, Kilavipatti Village, Kovilpatti Panchayat Union, Tuticorin and prevent him from encroaching the land belongs to the petitioner without acquiring the land of the petitioner under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 based on the representation dated 02.09.2024.”



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2. It is her case that she was entitled to an extent of 10.971 cents in S.No.171/1, Kilavipatti Village, Kovilpatti Panchayat Union, Tuticorin District, by virtue of a registered gift deed dated 24.07.2008 executed by her husband. It is her contention that she has been in possession and enjoyment of the same since then. The property is classified as “Natham land” in the revenue record and is fit for residential occupation. The petitioner would submit that she has her house site with a road facility. The road area had been earmarked and the metal road was also laid few years back.

3. It is her contention that the fourth respondent-Panchayat had laid a Thar road across her land without utilising the existing road. In short, she would submit that the Panchayat has laid a road on her land. Her husband had preferred a representation on 02.09.2024 stating that the road cannot be laid without acquiring the same and the request to the fourth respondent to stop the work has also not yielded any response. Therefore, the writ petition.



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4. When the matter had come up before this Court on 23.09.2024, Mr.B.Saravanan, learned Additional Government Pleader would submit that the road was being laid only on the existing road and has not been extended, which was strongly opposed by the learned counsel for the petitioner. Therefore, this Court has appointed Mr.Mohammed Haneef as Advocate Commissioner to identify the existing road and verify the following:

“1) Whether the existing road is being relaid?

2) Whether the road is being expanded and if so, if the extension is entering into the petitioner's property in S.No.171? And

3) Whether the road is extended beyond S.No. 47?”

5. The Advocate Commissioner had visited the site on 28.09.2024 in the presence of the writ petitioner; her Advocate; the fourth respondent; the Block Development Officer, Mr.Jawahar; the Head



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Surveyor, Mr.Kottaisamy; and the Village Administrative Officer, Mr.Sudalaimuthu Krishnan. The Commissioner from his report had demarcated the properties with the help of the Surveyor, traced the survey stones, taken photographs and submitted a report. The following is his conclusion as set out in paragraph 7:

“a) The existing Road has been relaid recently (probably within a period of 15 days)

b) The existing Road is not expanded but the road itself is passes through the property in Sy.No. 171 covering to an area of 210.80 sq. mtr.

c) The Road passes beyond Sy.No.47 and after covering an area of 210.80 sq. mtr in Sy.No.171, the Road turns on the Southern side and proceeds towards Kovilpatti.”

6. He has also enclosed photographs of the land and the road as it stood originally and now. Page No.27 of his report shows the earlier position of the road and its corresponding photograph is at page No.30. Similarly, the old photo at Page No.28, corresponds to the photo at Page No.31 and the photograph at page 29 tallies with the photo at page No. 32. A comparison of these photographs would clearly show that the road



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has not been extended and has been laid only on its existing position.

Therefore, the petitioner has approached this Court on a misconceived cause of action. Therefore, this Writ Petition is dismissed. No costs.

01.10.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

abr

To

- 1.The District Collector,
Tuticorin District.
- 2.The Tahsildar,
Kovilpatti,
- 3.The Block Development Officer,
Kovilpatti.
- 4.The President,
Kilavipatti Panchayat,
Kovilpatti, Tuticorin District.



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P.T.ASHA, J.

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