



W.P.(MD) No.23550 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.10.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.23550 of 2017

S.Palavesam

... Petitioner

Vs.

1.The District Collector,
Collectorate, Tirunelveli.

2.The Sub Collector,
Cheranmahadevi,
Tirunelveli District.

3.The Tahsildar,
Cheranmahadevi Taluk,
Tirunelveli District.

4.The Block Development Officer,
Cheranmahadevi,
Tirunelveli District.

5.The Taluk Surveyor,
Cheranmahadevi,
Tirunelveli District.

6.The Inspector of Police,
Paththamadai Police Station,
Tirunelveli District.

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the Respondents 2 to 5 herein to remove the tar road laid down by the 3rd respondent in the petitioner's Patta land comprised in S.No.87/2, Venkatarengapuram Village, Cheranmahadevi Taluk, Tirunelveli District and to restore the petitioner's patta land as it was in the original position.

For Petitioner : Mr.V.Ganesh
For R1- R5 : Mr.B.Saravanan
Additional Government Pleader
For R6 : Mr.K.Gnanasekaran
Government Advocate(Crl.Side)

ORDER

The present writ petition has been filed seeking a mandamus to the respondents 2 to 5 to remove the tar road laid by the 3rd respondent in the petitioner's Patta land comprised in S.No.87/2, Venkatarengapuram Village, Cheranmahadevi Taluk, Tirunelveli District and to restore the petitioner's patta land to it's original position.

2. The petitioner's contention is that he is the owner of an extent of 4 acre 30 cents in Survey Nos.86/2A, 86/3A, 86/6 and 87/2 and which he had purchased under a registered sale deed bearing document no.



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603/1999. The petitioner would submit that a tar road was laid from Venkatarengapuram to Sri Govindaperi to the distance of 0/0-1/060 kms under the supervision of the 4th respondent. While laying the road, it appears that instead of macadamizing, the existing the road was laid in the petitioner's patta land when he was out of station. The same was informed to him by his neighbours and immediately he returned and enquired with the contractor as well as to the 4th respondent. However, the 4th respondent evaded giving him a concrete answer. Therefore, the petitioner made an application for surveying his lands in Survey No.87/2 on 07.10.2016. However, it was only on 08.02.2017 that the said lands were surveyed. While survey, it became clear that the road had been laid inside the petitioner's patta land and the authorities agreed to remove the road however, the same was observed in the breach. Instead of removing the tar road, criminal complaint was lodged against the petitioner's son before the 6th respondent as if the petitioner's son had damaged the road and an FIR was lodged against him. Therefore, the petitioner has come forward with the writ petition.



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3. The petitioner has also sought for the appointment of an Advocate Commissioner to measure the property with the help of the 5th respondent, namely Taluk Surveyor. The Advocate Commissioner who has been appointed by this Court has reported that the newly laid tar road starts from 5 meters of the North East survey stone in Survey No.87/2 to a width of 4 meters in the north and it runs about 64.1 meters on the right side and 63.3 meters on the left side. The road runs from Survey No.87/6 to 87/2 and the road ends at Survey No.87/2 with a distance of 2.2 meters and width of 4 meters from the cart track. Therefore, from the report, it is clear that the cart track is formed in Survey No.87/2 and not the existing cart track. This is also clarified on perusing the FMB sketch which has been annexed to the report of the Commissioner. The Commissioner has shown the cart track in yellow colour and the newly laid macadamized road in red colour which is in Survey No.87/2.

4. The learned Additional Government Pleader for the respondents on instructions would submit that they are ready to pay the compensation (market value) as per private negotiations to the petitioner for the land



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taken for forming the road.

5. Recording the submission made by the learned Additional Government Pleader, this Court passing the following order:

(i) The respondents are directed to to pay the compensation (market value) as per private negotiations to the petitioner for the land taken for forming the road.

(ii) The petitioner shall produce the documents of title with reference to the said land.

(iii) On produing the same, the respondents shall arrive at a compensation and pay the same within a period of three (3) months from the date of receipt of copy of this order.

6. With the above directions, this Writ Petition stands disposed of.

No costs.

24.10.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

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P.T.ASHA, J.

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