



W.A.(MD) No.15 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.01.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.A.(MD) No.15 of 2024
and
C.M.P.(MD) No.78 of 2024**

A.Sundaraj

... Appellant/Petitioner

-VS-

- 1.The District Collector,
Kanyakumari District,
Nagercoil.
- 2.The Competent Authority & District Revenue Officer,
Land Acquisition National Highways,
Tirunelveli @ Nagercoil,
Kanyakumari District.
- 3.The Project Director cum DGM (Tech),
No.314E, K.P.Road,
Near Ayappan Kovil,
Parvathipuram, Nagercoil – 629 003,
Kanyakumari District.
- 4.The Revenue Divisional Officer,
Padmanapuram, Kanyakumari District.



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5.The Special Tahsildar (LANH Unit III),
Villvancode, Thiruthuvapuram,
Kanyakumari District.

6.The Tahsildar,
Kalkulam Taluk,
Kanyakumari District.

7.The Land Surveyor,
Thiruvithancode,
Kanyakumari District.

... Respondents/Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order,
dated 07.12.2023, passed in W.P.(MD) No.20139 of 2021, on the file of this
Court.

For Appellant : Mr.G.Justin

For Respondents : Mr.T.Amjadkhan
Government Advocate for R1, R2, R4 to R7

Mr.Su.Srinivasan for R3

J U D G M E N T

[Judgment of the Court was made by D.KRISHNAKUMAR, J.]

Challenge in this writ appeal is to the order dated 07.12.2023, passed
in W.P.(MD) No.20139 of 2021, by the Writ Court.



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2. Though the appellant has filed this Writ Appeal, raising several grounds, the learned counsel for the appellant mainly contended that the respondent highways had acquired only an extent of 59 cents in S.No.830/5, Valvachangostam Village, Kalkulam Taluk, Kanyakumari District, from the appellant and the remaining 10 cents of land, which belongs to the appellant has been encroached by the respondent Highways and for that they have not paid any compensation amount.

3. Learned Government Advocate appearing for the respondents 1, 2, 4 to 7 would drew our attention by stating that the appellant has also filed a suit in O.S.No.336 of 2018 on the file of Sub Court, Padmanabhapuram for declaration and mandatory injunction as against the possession of the property to an extent of 10 cents and hence, the Writ Court has directed the appellant to workout his remedy before competent forum.

4. We have considered the rival submissions and perused the materials placed before this Court.



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5. It is an admitted fact that the appellant has already filed the suit for declaration and mandatory injunction in respect of the above said 10 cents of land and the same is pending. While so, the appellant has filed the Writ Petition alleging that the respondent Highways have encroached the said 10 cents of land without paying the compensation. There is a dispute between the appellant and private parties in respect of the said 10 cents. For resolving the disputed questions of facts, the appellant cannot invoke the jurisdiction of this Court under Article 226 of the Constitution of India, for which the appellant has to seek remedy in the pending civil suit. Therefore, the Writ Court has rightly dismissed the Writ Petition and this Court finds no reason to interfere with the same.

6. Accordingly, the Writ Appeal stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

[D.K.K., J.] [R.V., J.]

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Index : Yes / No
Internet : Yes / No
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