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WP.No.11907 of 2024

In the High Court of Judicature at Madras

Reserved on : 20.2.2025	Delivered on : 24.2.2025
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Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.11907 of 2024 &
WMP.Nos.13005, 13007, 21344 & 24220 of 2024

K.Velusamy

...Petitioner

Vs

1.The Additional District Magistrate
-cum-District Revenue Officer,
Office of the DRO, Coimbatore
District, Coimbatore.

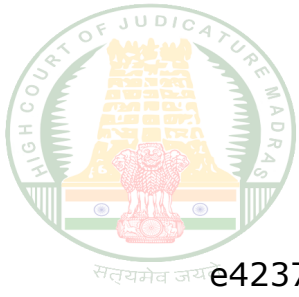
2.The Revenue Divisional Officer,
Office of the RDO, Coimbatore
North Sub-Division,
Coimbatore District, Coimbatore.

3.The Tahsildar, Annur Taluk,
Annur, Coimbatore District.

4.T.Kulanthaivelu

...Respondents

PETITION under Article 226 of The Constitution of India praying
for the issuance of a Writ of Certiorarified Mandamus to call for the
records pertaining to the impugned order passed in Ni.Mu.No.



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e423710/2022/E1 dated 19.12.2023 by the 1st respondent thereby making changes in A-Register by adding Public Cart Track (நிலவியல் வண்டிப்பாதை) in S.No.556/1 and removing Public Cart Track (நிலவியல் வண்டிப்பாதை) in S.No.556/2 in the A-Register of Kuppepalayam Village, quash the same as illegal and consequently direct the 3rd respondent to remove the note public cart track (நிலவியல் வண்டிப்பாதை) from patta No.666 and A-Register extract pertaining to the land measuring 37 cents comprised in S.No.556/1 of Kuppepalayam Village.

For Petitioner	:	Mrs.Chitra Sampath, SC for Mr.P.Muthukrishnan
For R1 to R3	:	Mr.A.Selvendran, SGP
For R4	:	Mr.L.P.Shanmugasundaram

ORDER

This writ petition has been filed challenging the proceedings of the first respondent dated 19.12.2023 and to issue a consequential direction to the first respondent to remove the endorsement 'public cart track (நிலவியல் வண்டிப்பாதை)' from patta No.666 pertaining to the property situated in S.No.556/1, Kuppepalayam Village, Annur Taluk, Coimbatore District.



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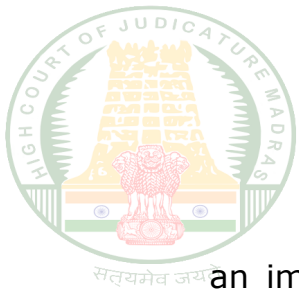
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2. Heard the learned Senior Counsel appearing on behalf of the petitioner, the learned Special Government Pleader appearing for respondents 1 to 3 and the learned counsel appearing for the fourth respondent.

3. The case of the petitioner is as follows :

(i) The petitioner is the absolute owner of the property in S.No. 556/1 measuring 37 cents at Kuppepalayam Village by virtue of a release deed dated 18.12.2020 registered as doc.No.10201 of 2020 on the file of the Sub-Registrar, Annur. He is in possession and enjoyment of the subject property and a patta was also issued in respect of the subject property in patta No.666. According to the petitioner, no public cart track was in existence in the subject property at any point of time. However, in the Revenue Records, it was wrongly mentioned that there was a public cart track in the property S.No.556/2. This error was stated to have been rectified by the Revenue Officials in the A-Register entries of the Village Revenue Records.

(ii) While so, on 15.9.2022, the fourth respondent, along with some other persons, attempted to alter the boundaries of the property belonging to the petitioner and damaged the fence in order to create



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an impression that a portion of the subject property is a public cart track. In view of the same, the petitioner filed a suit in O.S.No.1171 of 2022 before the Principal District Munsif Court, Coimbatore seeking for the relief of permanent injunction restraining the private respondents including the fourth respondent from claiming any rights and interfering with the petitioner's peaceful possession and enjoyment of the suit properties and also to restrain the Revenue Officials from making any changes in the Revenue Records. The said suit was later transferred to the file of the District Munsif-cum-Judicial Magistrate Court, Annur and was renumbered as O.S.No.60 of 2023.

(iii) The said suit is still pending. In the meantime, the fourth respondent sent a representation dated 14.11.2022 to the District Collector concerned on behalf of the villagers stating that the fourth respondent and other villagers are utilizing the public cart track in S.No.556/1 whereas it is shown as if it is running through S.No.556/2 and accordingly requested to make necessary changes to be made in the relevant documents. The petitioner submitted his detailed objections to the said representation made by the fourth respondent wherein he took a specific stand that at no point of time, there was a public cart track existed in the subject property, It was also brought to



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the notice of the Authorities that the fourth respondent attempted to encroach upon the property of the petitioner and as a result, a civil suit has been filed and is pending.

(iv) The first respondent received the reports from the Revenue Authorities and proceeded to pass the impugned order on 19.12.2023 whereby a direction was given to the third respondent to make changes in the A-Registrar by adding the endorsement as 'public cart track' in S.No.556/1 and removing the said entry in S.No.556/2. This order has been put to challenge in the above writ petition.

4. When the matter came up for admission before this Court on 26.4.2024, this Court granted an order of interim stay of the impugned order, which has been extended subsequently from time to time. Pursuant to that, respondents 1 to 3 filed a petition in WMP.No.21344 of 2024 seeking to vacate the stay granted on 26.4.2024 and filed a counter. Further, the fourth respondent also filed a petition in WMP.No. 24220 of 2024 seeking to vacate the same interim order and filed a counter.

5. In the counter affidavit filed by respondents 1 to 3, they have



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taken a stand that the public cart track actually exists in S.No.556/1, that it has also been marked in the field measurement book and in the village map, that during the UDR scheme, it has been wrongly marked in S.No.556/2, that the petitioner blocked the passage and caused hindrance and as a result, the first respondent conducted the inquiry after affording an opportunity to all the parties concerned, that only on receiving the reports and on going through the records, it was found that the public cart track is in existence in S.No.556/1 and that therefore, a direction was issued to third respondent to rectify the mistake and to record the correct entry in the Revenue Records.

6. In the counter filed by the fourth respondent, he has taken a stand that the petitioner has encroached a portion of the land in S.No. 556/2, that this was objected by the fourth respondent, that thereafter, a representation was made to the first respondent stating that the public cart track has been wrongly mentioned in S.No.556/2 whereas it is available in S.No.556/1 and that there is no other pathway to access his property except the subject property where the public cart track is situated. In view of the above, the fourth respondent sought for dismissal of this writ petition.



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7. When the matter came up for hearing on 06.2.2025, this Court passed the following order :

"This Court heard Mrs.S.Chitra Sampath, learned Senior Counsel appearing on behalf of the petitioner, Mr.A.Selvendran, learned Special Government Pleader for R1 to R3 and Mr.L.P. Shanmugasundaram for R4.

2. Pursuant to the earlier direction issued by this Court, the original records were produced before the Court. It is seen that these records pertain to the entries that were made subsequent to the UDR scheme. This Court wants to see the records as it prevailed for the subject property and the other adjacent survey numbers, prior to the UDR scheme. That will give a fair idea as to whether there was a (நிலவியல் வண்டிப்பாத்த) in S.Nos.2, 3, 4, 5, 534, 537, 538, 539, 540 554, 555 and 556. Hence, the relevant original records shall be produced during the next date of hearing.

3. Post this case under the caption 'part heard cases on 14.02.2025.'

8. The matter was again listed on 14.2.2025, on which date, the following order has been passed by this Court :

"Pursuant to the earlier order passed by this Court, the original records were produced. On



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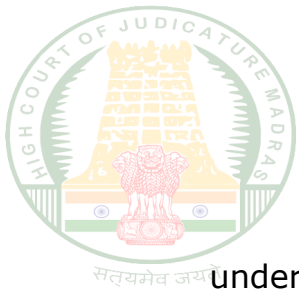


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going through the same, the learned Senior Counsel appearing on behalf of the petitioner submitted that the original records prior to the entries made during the UDR scheme nowhere gives an indication that the properties that were identified was classified as a 'Nilaviyal Vandipathai'. In view of the same, post this writ petition under the same caption on 18.02.2025."

9. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned order.

10. The main issue that arises for consideration in this writ petition is as to whether there are any materials to show that the public cart track was available before the UDR scheme and whether the fourth respondent was attempting to agitate his private dispute with the petitioner by making a representation to the first respondent and to pre-empt the claim made by the petitioner in the pending civil suit. The other issue that is involved is as to whether the first respondent, in spite of having knowledge about the pending civil suit between the petitioner and the fourth respondent, should have



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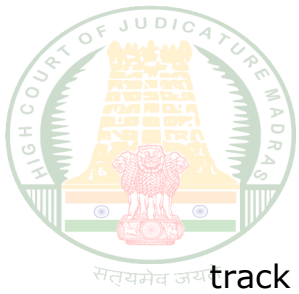
undertaken the process of conducting an inquiry, rendering findings and issuing directions to the third respondent for making alterations in the Revenue Records.

11. The specific case of the petitioner is that there was no public cart track that was available in S.No.556.

12. On going through the sketch that was produced before this Court, it is seen that the so-called pathway runs through S.Nos.2, 3, 4, 5, 534, 537, 538, 539, 540, 554, 555 and 556. This is seen from the records that were produced subsequent to the UDR scheme.

13. The grievance of the petitioner is that this mistake had taken place only during the UDR scheme and that the same has to be rectified.

14. In view of the said submission, the original records were called for in order to ascertain as to whether such a public cart track was available in these survey numbers before the UDR scheme. However, on production, the original files reveal that such a public cart



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track is not available. The first respondent has now interpreted the title documents that were placed by the writ petitioner and has concluded that a public cart track is available in S.No.556/1. As already observed by this Court, the existence of a public cart track is not available in any of the records prior to the UDR scheme and for the first time, such a conclusion has been arrived at by the first respondent based on the title documents of the petitioner. This is yet another reason as to why the first respondent ought not to have ventured into this exercise considering the fact that a suit has already been filed before the Civil Court where the dispute is at large between the petitioner and the fourth respondent.

15. The fourth respondent claims that the public cart track is used not only by the fourth respondent, but also by the other villagers.

16. There is absolutely no indication in any of the records placed before this Court that the other villagers were also claiming for such a right. It is quite evident that there is a personal dispute between the petitioner and the fourth respondent.

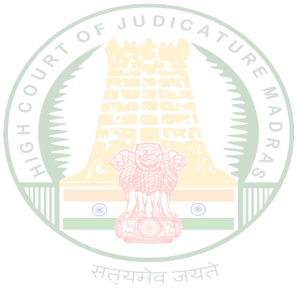


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17. The petitioner filed a civil suit in O.S.No.60 of 2023 with a specific cause of action that the fourth respondent was attempting to encroach upon the properties belonging to the petitioner and had damaged the fencing by using a JCB machine to create an impression that there is a public cart track. Even though S.No.556/1 does not form part of the suit schedule properties, that portion of the property was attempted to be encroached and thereby prevented the petitioner from enjoying his agricultural lands. Only after filing the said suit, the fourth respondent had chosen to send a representation dated 14.11.2022.

18. The first respondent was made aware of the fact that the civil suit is still pending. Hence, the first respondent ought not to have ventured to decide the inter-se rights of the petitioner and the fourth respondent over the subject property. Such determination of the rights by the first respondent will adversely impact the interest of the petitioner in the pending suit. Further, in view of the impugned order passed by the first respondent, the fourth respondent has virtually developed his defence and is attempting to foreclose the claim made by the petitioner.



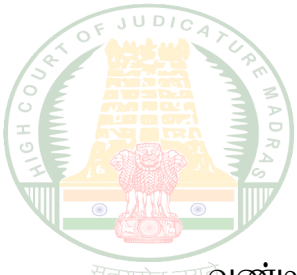
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19. This Court has already opined that it is a private dispute between the petitioner and the fourth respondent, which has resulted in the proceedings before the first respondent and this private dispute is already pending before the Civil Court and therefore, the first respondent should not have dealt with the representation made by the fourth respondent dated 14.11.2022 and should have directed the parties to agitate their rights before the Civil Court.

20. The learned counsel appearing for the fourth respondent produced certain judgments to the effect that wherever a public pathway is running in a patta land and it is classified as 'நிலவியல் வண்டிப்பாதை', the owner of the property cannot claim any exclusive right over the same.

21. There is absolutely no dispute with regard to the said proposition that was canvassed on the side of the fourth respondent. The question is as to whether there was any 'நிலவியல் வண்டிப்பாதை' in S.No.556 prior to the UDR scheme. The original records produced before this Court do not disclose any such 'நிலவியல் வண்டிப்பாதை' in S.No.556. Therefore, it makes no difference to mark 'நிலவியல்



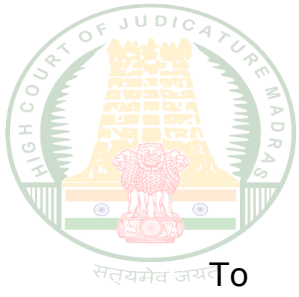
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வண்டிப்பாதை' either in S.No.556/1 or in S.No.556/2.
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22. In the considered view of this Court, the first respondent ought not to have decided the dispute when the suit is pending before the competent Civil Court and more particularly when, except for the fourth respondent, no one else has appeared before the Collector concerned and there is no indication that a claim was made by the other villagers also. Hence, this Court is inclined to interfere with the impugned proceedings of the first respondent dated 19.12.2023.

23. Accordingly, the writ petition is allowed and the impugned order is quashed. It is left open to both the petitioner as well as the fourth respondent to raise all the grounds in the pending civil suit. The District Munsif-cum-Judicial Magistrate, Annur shall decide O.S.No.60 of 2023 on its own merits and in accordance with law without being influenced by the impugned order dated 19.12.2023 passed by the first respondent or this order. No costs. Consequently, the connected WMPs are closed.

24.2.2025



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To

1.The Additional District Magistrate
-cum-District Revenue Officer,
Office of the DRO, Coimbatore
District, Coimbatore.

2.The Revenue Divisional Officer,
Office of the RDO, Coimbatore
North Sub-Division,
Coimbatore District, Coimbatore.

3.The Tahsildar, Annur Taluk,
Annur, Coimbatore District.

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N.ANAND VENKATESH,J

RS

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WMP.Nos.13005, 13007,
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