



W.P(MD)No.4553 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 27.02.2025

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THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Writ Petition(MD)No.4553 of 2023

Ramamoorthy

..Petitioner

Vs

1.The District Collector
Virudhunagar,
Virudhunagar District.

2.The Executive Officer,
Mallanginaru Town Panchayat Office,
Kariyapatti,
Virudhnagar District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus to direct the respondents to consider the petitioner's representation dated 18.02.2023 to form the road in S.No.434/13 which is classified as a street after earmarking his property at S.No.434/42 in Mallanginaru Village at Kariyapatti Taluk, Virudhunagar District and thereby leaving the petitioner's property from the formation of road.



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For Petitioner : Mr.G.Mariappan

For Respondents : Mr.S.Shaji Bino
Spl. Govt. Pleader (for R1)

ORDER

The petitioner seeks issuance of a Writ of Mandamus to direct the respondents to consider his representation dated 18.02.2023 to form the road in S.No.434/13, which is classified as a street, after earmarking his property at S.No.434/42 in Mallanginaru Village at Kariyapatti Taluk, Virudhunagar District, and thereby leaving his property from the formation of the road.

2. The case of the petitioner is that the property situated in S.No.434/42 of Mallanginaru Village at Kariyapatti Taluk, Virudhunagar District, was given in assignment by the Government, to be used as a house site. Similar assignments were made in favour of the petitioner's brothers with respect to S.Nos.434/41 and 434/43. As the third parties were attempting to interfere with their possession, the petitioner, along with his brothers, presented O.S.No. 49/2012 on the file of the Sub Court at Aruppukkottai. The suit was decreed. Thereafter, in February 2023, the second respondent/Executive Officer, Mallanginaru Town Panchayat, encroached upon the property situated at S.Nos. 434/41, 434/42 and 434/43. The reason for the Executive Officer to have



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visited the site was because he was proposing to lay a road over S.No.434/13.

The petitioner objected to the road being laid over their property. They registered their protest by sending a representation to the respondents on 18.02.2023. As no action had been taken, the petitioner came forward with the present writ petition.

3. Taking note of the fact that the petitioner pleaded that the respondents are attempting to interfere with their possession over the property assigned to them, I requested Mr.S.Shaji Bino, learned Special Government Pleader appearing for the first respondent/District Collector, Virudhunagar District, to direct the Tahsildar of Kariapatti Taluk to conduct a survey and submit a report. Mr.S.Shaji Bino had given appropriate direction to the Tahsildar and the Tahsildar has submitted a report dated 27.02.2025 to this Court. There is a plan annexed to the said report.

4. In terms of the report of the Tahsildar, the second respondent has laid a road to an extent of one meter on one side and 1.2 meter on the other side. The second respondent has laid a road over the property in S.No.434/42. For the ready reference, the report and plan of the Tahsildar are extracted hereunder:-



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W.P. (M.D.) NO - 4552/2022

ԸՏՁԱՅ ԽՈՂԵՒԻ, ԵՐԵՎԱՆԻԿ ԶԱՆԻ, ԽՐՈՆՈՐԵՐԻ
 ԵՅՐԱՔԱՅ ԾԺՅՁ ՄԱԲՅՅՏ ՈՐԻՆԻ ԽՅՈՑ ՇԱՅՏԷՆԻ
 ԺԱՌԱՆ ԽՐՈՐԵՐԻ ԵՅՐԵ Խ ՎՈՆ 434/42-Ի, ԺԱՅՈՒ
 ԱՆԼՈՒ ԵԼՅՏԻ ԺՈՐՈՆ ՂԱՅԻՆԻ ԵԼՅՈՒ (Խ.Ր. Խ.Ր. - 4352/
 ԵԱՅՁ)
 ՂԱՆԼՅՁ ԾՅՏԻՈ, ԵԼՅԱՆԻ, ԽՅՈՑ ՇԱՅՏԷՐԻՅ ԺԱՌԱՆ,
 ՇԱՅՈՒ ԵՏԿՔ ՁԱՅԻՆԻ ՇՅՁԱՆ ԽՐՈՐԵՐԻ ԵՅՐԵ
 Խ ՎՈՆ 434/42-Ձ ԺԱՅՁ ՁԱՅԻՆ ԺԱՅԻՆԻ ԵԼՅԱՆԻՆԻ
 ԵՐԵՎԱՆԻԿ ԶՈՐԵՆ ԶԱՆԻՆԻ,
 ԽՈՆ 434/Խ-Ձ

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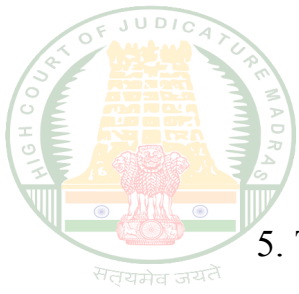
உயிர்வாழ்வு அமைதி

26/02/25



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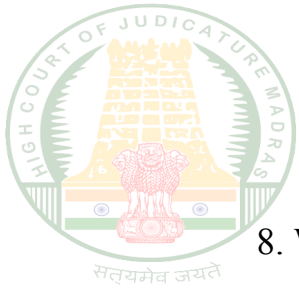


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5. The report and plan show that the second respondent has infringed the property right of the petitioner. Hence, there shall be a direction to the second respondent not to interfere with the possession of the petitioner over the land situated at S.No.434/43, Mallanginaru Village, except in accordance with law.

6. At this stage, Mr.S.Krishnakumar pleaded that he represents the 7th defendant in O.S.No.49 of 2012 on the file of the Sub Court, Aruppukottai, and he wants to implead the 7th defendant as a party to this proceedings. He pleads that he has preferred an appeal against the judgment and decree in O.S.No.49 of 2012 to the file of the learned Additional District Judge, Virudhunagar in A.S.No.28 of 2021 and states that any order passed in this writ petition will affect his interest.

7. The scope of the writ petition is only to find out whether the second respondent-Executive Officer had laid a road on S.No.434/13 or S.Nos.434/41, 42 and 43. This Court is not going into the issue of title in this proceedings. It is up to the 7th defendant in O.S.No.49 of 2012 on the file of the Sub Court, Aruppukottai to workout his right in the pending appeal before the learned Additional District Judge.



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8. With the above directions, the writ petition is disposed of. No costs.

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NCC : Yes/No

Index : Yes/No

Internet: Yes

skn

To

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2.The Executive Officer,
Mallanginaru Town Panchayat Office,
Kariyapatti,
Virudhnagar District.



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V.LAKSHMINARAYANAN, J.

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