



W.A.(MD)No.760 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.A(MD)No.760 of 2022

and

C.M.P(MD)No.6356 of 2022

1.The District Collector,
Office of the District Collector,
Pudukkottai District.

2.The Block Development Officer,
Viralimalai Panchayat Union,
Pudukkottai District – 621 316.

... Appellants /
Respondents

Vs.

T.P.Murugesan

... Respondent /
Writ Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to allow the Writ Appeal by set aside the order passed in W.P(MD)No.14898 of 2019 dated 30.04.2021.

For Appellants : Mr.S.RA.Ramachandran
Additional Government Pleader

For Respondent : Mr.M.Mahaboob Athiff



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Mr.Aju Tagore for intervenor

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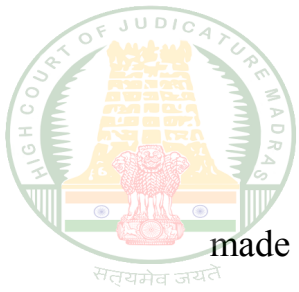
JUDGMENT

(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.T.P.Murugesan filed WP(MD)No.14898 of 2019 to forbear the appellants herein from laying metal road in his patta land in Survey Nos. 227/3A and 227/3B situated at Viruthappatti Revenue Village, Settiapaari Village, Viralimalai Taluk, Pudukkottai District. The learned Single Judge allowed the writ petition vide order dated 30.04.2021 by holding that Nilaviyal Pathai was of recent origin and if the authorities want to lay a road, they ought to follow due process of law and acquire the land through land acquisition proceedings. Challenging the same, this Writ Appeal came to be filed.

3.Heard the learned counsel for the writ petitioner as well as the learned Additional Government Pleader appearing for the District Administration. The learned counsel for the intervenor supported the stand of the appellants. The intervenor / Rasu had independently filed W.P(MD)No.11614 of 2024 seeking removal of encroachment allegedly



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made by Thiru.T.P.Murugesan in the petition mentioned survey numbers.

WEB COPY The said writ petition is still pending.

4. We perused the A Register and other revenue records. Even a bare look at the A Register indicates that Survey No.227/3A is a patta land and in Survey No.227/3B, Viruthappatti Village, a Nilaviyal Pathai runs across measuring an extent of 0.09.5 HAC. The UDR entry in which Survey No.227/3B has been shown as Nilaviyal Pathai had been published sometime in the year 1984. If according to the writ petitioner, it was an erroneous entry, he ought to have moved the jurisdictional District Revenue Officer and got the same corrected. Therefore, we will go only by the existing entry. The learned Additional Government Pleader also produced the topo sketch which predated UDR. It can be seen therefrom that detail marks have been shown across the old Survey No.227.

5.Our attention was drawn to Clause 15 of Revenue Standing Order 26, which reads as follows:

“15. Encroachments on plan-marked details:- A plan- marked channel or pathway running in a patta land is a Government land. Eviction of encroachments in such lands need be invoked only in



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cases where the encroacher has interfered with the plan marked detail so as to close its entrance to and exit from his lands. In the case of pathways and cart tracks which have been used by the public till recently, the ryot should not be allowed to shift the course of the details to suit his own convenience. However, such diversions of plan marked channel from its original course, with a view to consolidate his holding or to facilitate irrigation of the portions which would be otherwise severed need not be treated as encroachment."

6.From these circumstances, we do infer that a Nilaviyal Pathai had been running across the writ petitioner's patta land. It is true that Survey No.227/3B is a patta land. But, since a Nilaviyal Pathai runs across, the consequence is that the general public are entitled to use the said pathway. Since the expression "Nilaviyal Pathai" is mentioned, its dimension can only be approximately 8 feet. But the authorities cannot lay any metal or thar road on the said land. Therefore, we sustain the order of the learned single Judge to the extent it restrains the authority from laying any thar road. If the authorities want to lay any metallic or thar road, they have to acquire the same in the manner known to law. So long as such an acquisition has not taken place, the authorities cannot do so. But then, the writ petitioner also cannot cause any obstruction on the said Nilaviyal Pathai. The writ petitioner cannot prevent the general public from using the Nilaviyal Pathai.



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WEB COPY 7. With the aforesaid observations and clarifications, this Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [M.J.R., J.]
17.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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