

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

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Thursday, the Twenty Fourth day of April Two Thousand Twenty Five

PRESENT

The HONOURABLE MR. JUSTICE P.B. BALAJI

WP(MD) Nos.9267 and 19027 of 2023

WP(MD). Nos.9267 of 2023

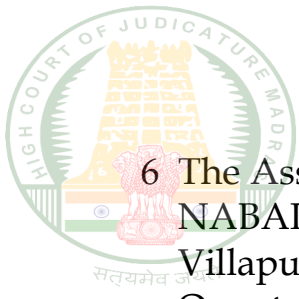
Rajendra Prasad

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Petitioner

Vs

- 1 The District Collector
Madurai District Madurai.
- 2 The Tahsildar
Madurai East Taluk
Y. Othakadai Narasingam
Madurai.
- 3 The Block Development Officer
Madurai East Union Madurai.
- 4 The Public Works Department
(Water Resource)
Rep. by the Assistant Engineer
Viraganoor Dam Section ,
Viraganoor ,
Madurai - 625 009.
- 5 The Divisional Engineer
Highways Department
(Construction and Maintenance)
Madurai.



6 The Assistant Divisional Engineer (Highways)
NABARD and Village Roads
Villapuram Main Road ,
Opp. to Jeyavilas
Madurai.

... Respondents

Prayer in WP(MD). Nos.9267 of 2023 :

Writ Petition, filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing respondents No.1 to 5 to take steps to remove the NABARD Village Road which is being laid on the petitioners plots bearing No.69 and 70 situated in S. No.1/1 Sub-division 1/13, Patta No.280 of Karuppapillaiyendal Village, Madurai East Taluk, Madurai District and consequently direct the 6th respondent to lay the NABARD Village Road (20 feet road) on the eastern side of Plot No.70 on the basis of the petitioners representation dated 17.04.2023 and pass such further or other orders as this Honble Court may deem fit and proper in the circumstances of the case and thus render justice.

WP(MD). Nos.19027 of 2023

Rajendra Prasad

Vs

Petitioner

1.The District Collector,
Madurai District,
Madurai.

2.The Revenue Divisional Officer,
Melur,
Present-Narasingapatti,
Madurai District.

3. The Tahsildar
Madurai East Taluk
Y. Othakadai Narasingam
Madurai.

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Respondents



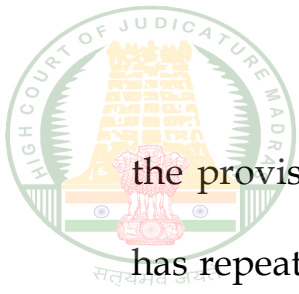
Prayer in WP(MD). 19027/ 2023 :

Writ Petition filed under Article 226 of Constitution of India, praying this Court to issue of Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings passed by the 2nd respondent vide Ni.Mu.No. 3949/2023/A4 dated 06.07.2023 by cancelling the petitioners patta bearing No.280, and quash the same as illegal and consequently direct the 2nd respondent to restore the petitioners patta into his name and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

Common Order :- These Writ Petitions coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.M.Sankar, Advocate for the Petitioner and of Mr.S.Kameswaran, Government Pleader for the respondents this Court made the following order:

In W.P(MD)No.9267 of 2023 the petitioner is a purchaser of the plots in an unapproved layout. However, the layout was formed even in the year 1969 - 1970 when there was no requirement for approval of layouts.

2. Be that as it may, before this Court a specific stand is taken by the official respondents that the petitioner's properties were acquired under



the provisions of the Land Acquisition Act. This Court, by earlier orders, has repeatedly directed the official respondents to produce the copy of the award. Excepting for producing the copy of the notice of award enquiry, the copy of the Award has not been produced till date. However, subsequently the patta which stood mutated in the name of the petitioner has been cancelled on the ground that the patta was wrongly issued to the petitioner and that the lands are Government poramboku lands. The said order has been challenged by the writ petitioner in W.P(MD)No.19027 of 2023. Both the writ petitions are being heard together.

3. The petitioner relies on the photographs to show that some of them have constructed residential buildings and they have also been issued patta. However, it is the specific case of the respondents that there is a Nilaviyal Pathai which is cutting across the petitioner's plot and the revenue records were therefore rightly modified, cancelling the patta issued to the petitioner.

4. It is the specific case of the counsel for the petitioner that there is a 20 feet road available for the formation /continuation of the road to reach the Kalmadai Viz., Anaikat Road. In order to ascertain whether there is any such existing alternate 20 feet road, which can be utilised instead of the petitioner's lands as claimed by the respondents and more specifically, in



for utilising the 20 feet pathway to the use of petitioner's plots, I am of the considered opinion that in order to get first hand report regarding lay of the properties an Advocate Commissioner can be appointed.

5. In view of the above, Mr.N.RAJAPANTH, Advocate, No.40, Law Chamber, High Court, Madurai, Cell No.82203 36009 is appointed as Advocate Commissioner to inspect the subject plots with specific emphasis on the following:-

(i) The Advocate Commissioner shall inspect the subject plots and file a report with regard to the number of houses that have been constructed in the layout in Survey No.1/1A3;

(ii) Ascertain whether pattas have been issued to any of the plot owners in North-West Corner namely Plot Nos.53, 65, 66, 67, 68, 69, 70, 71, 72, 127, 138, 139, 140, 254, A,B,C,D,I, J, K,L, which is to the west of the road that has been formed in the said layout towards the extreme western end of the property.

(iii) The Advocate Commissioner shall also ascertain the existence of the road / Pathway in S.No.1/1A2 and as to whether the road is available in terms of the FMB at page 2 of the second additional typed set of papers filed by the petitioner or is it in terms of the sketch filed by the second respondent by way of

typed set of papers at Page 60.



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(iv) The Advocate Commissioner shall also ascertain the existence of the 20 feet road to the east of the petitioner's Plot Nos.69 and 70.

(v) The Advocate Commissioner shall take the assistance of the local Taluk Surveyor to carry out the said exercise, who shall render full assistance and co-operation.

(vi) The Advocate Commissioner shall also take photographs and enclose the same along with the report which will also be enclosed along with the Taluk surveyor's report as well.

(vii) The report shall be filed before this Court on or before 04.06.2025.

(viii) Subject to the decision in W.P(MD)No.9267 of 2023, the patta cancellation issued which is subject matter of W.P(MD) No.19027 of 2023, shall be taken up.

6. The Advocate Commissioner fee fixed at Rs.25,000/- (Rupees Twenty Five Thousand only) is payable by the petitioner only and the petitioner is directed to pay the said fees to the Advocate Commissioner, within a week from the date of receipt of this order. Apart from that, the petitioner shall also arrange for the conveyance and other incidental



expenses of the Advocate Commissioner.

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Sd/-

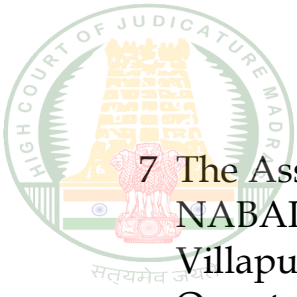
Assistant Registrar (CS II)

/05/2025

Sub Assistant Registrar
(CS - I/ II / III /IV)

To

- 1 The District Collector
Madurai District Madurai.
- 2 The Tahsildar
Madurai East Taluk
Y. Othakadai Narasingam
Madurai.
- 3 The Revenue Divisional Officer,
Melur,
Present-Narasingapatti,
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NABARD and Village Roads
Villapuram Main Road ,
Opp. to Jeyavilas
Madurai.

8. MR.N.RAJAPANTH, ADVOCATE COMMISSIONER
ENROLLMENT NO.1276/2016
NO.40, LAW CHAMBER,
HIGH COURT, MADURAI
CELL NO.8220336009.

Copy to :The Section Officer,
Madurai Bench of Madras High Court,
Madurai.

ORDER DATED : 24/04/2025

HEARING DATE : 04/06/2025

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Order

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WP(MD)Nos.9267 & 19027 of 2023

Giving direction and etc.
as stated within.

KR/09.05.2025 8P/10C

Madurai Bench of Madras High Court is issuing certified copies in this format from
17/07/2023