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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.07.2023**

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P(MD)NO.18032 OF 2023

Mayalagu

:Petitioner

.VS.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Revenue Divisional Officer,
Aruppukkottai,
Virudhunagar District.

3.The Tahsildar,
Tiruchuli Taluk,
Virudhunagar District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the second respondent to consider and dispose of the Petitioner's representation, dated 12.6.2023 by adopting due process of law for measuring the public pathway, to do sub-division, by giving separate survey numbers, consequently to protect the public pathway preventing from encroachment and deterioration which passing through lands in S.Nos.13/2,13/3,13/12,25/1,19/6, 19/7,19/8,19/9,20/10B,20/10D,22/8,22/9,22/10A,22/10B,22/12



and 22/6 that is being used by the general public of Kodangipatti Village in Ramanathapuram District for more than 70 years at the earliest possible as per the date fixed by this Court.

For Petitioner : Mr.K.Vijayanand
For Respondents : Mr.P.Thilak Kumar
1 to 3 Govt.Pleader

ORDER

(Order of the Court was made by S.S.SUNDAR,J)

This Writ Petition is filed seeking issuance of a Writ of Mandamus directing the second respondent to consider and dispose of the Petitioner's representation, dated 12.6.2023 by adopting due process of law for measuring the public pathway, to do sub-division, by giving separate survey numbers, consequently to protect the public pathway preventing from encroachment and deterioration which passing through lands in S.Nos. 13/2,13/3,13/12,25/1,19/6,19/7,19/8,19/9,20/10B,20/10D, 22/8,22/9,22/10A, 22/10B,22/12 and 22/6 that is being used by the general public of Kodangipatti Village in Ramanathapuram District for more than 70 years.

2.Mr.P.Thilak Kumar, learned Government Pleader takes notice for the respondents 1 to 3. By consent of both parties, the Writ



Petition is taken up for final disposal at the admission stage itself.

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3.The Petitioner claims right over the property in question on the basis that there is a Cart Track in existence as per the revenue records. Though it is shown as Nilaviyal Pathai(Cart Track) as detailed in the revenue records, the Tahsildar, in his report, dated 11.7.2023, has observed as follows:

‘எனவே மேற்காணும் புல எண்களில் விளக்கியாக பதிவு செய்யப்பட்டுள்ள வண்டிப்பாதை பட்டா நிலங்களாக இருப்பதால் நில ஆர்ஜிதம் செய்து தனியாக உட்பிரிவு செய்து □வண்டிப்பாதை□ என கிராமம் மற்றும் வட்ட ஆவணங்களில் தாக்கல் செய்ய மேல் நடவடிக்கைக்காக எனது பரிந்துரையை பணிவுடன் தெரிவித்துக்கொள்கிறேன்.□

4.The existence of Cart Track which is only detailed in FMB, cannot be fixed with reference to boundaries and measurements. The enjoyment and existence of such cart track cannot be presumed unless there are revenue records specifically defining the pathway with reference to the boundaries and measurements.

5.In such circumstances, this Court is of the view that the Petitioner may establish the existence of such pathway and its



usage as a public pathway, so as to claim right of easement before the Civil Court.

6.Reserving such liberty to the Petitioner, the Writ Petition is dismissed. No costs.

[S.S.S.R.,J.] [D.B.C,J.]
26.07.2023

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

vsn

To

- 1.The District Collector,
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S.S.SUNDAR, J.

AND

D.BHARATHA CHAKRAVARTHY, J.

vsn

ORDER MADE IN

W.P(MD)NO.18032 of 2023

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