

W.P.No.30947 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2026

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**THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN
AND
THE HONOURABLE MRS.JUSTICE N.MALA**

Writ Petition No.30947 of 2023

C.Periyathambi,
Thonayekadu,
Kallankulam, R.Pudhupalayam (P.O),
Rasipuram Taluk,
Namakkal District.

.. Petitioner

/versus/

1.The Principal Secretary,
Revenue and Disaster Management Department,
Government of TamilNadu,
Fort St.George, Chennai 600 009.

2.The District Collector,
Namakkal District.

3.The District Revenue Officer,
Namakkal District.

4.The Revenue Divisional Officer,
Namakkal 637 001.

5.Tahsildar,
Rasipuram Taluk Office,
Rasipuram,
Namakkal District.



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6.Executive Officer,
Rasipuram Town Panchayat,
Namakkal District.

7.S.Nedunchezhiyan,
S/o Sellamuthu,
Kondaiyan Kadu, Pattanam Village,
R.Puduppalayam (P.O.),
Rasipuram Taluk 637 408, Namakkal District.

8.R.Gopal, S/o Ramalingam,
Ramalingam Thottam, Pattanam Village,
R.Puduppalayam (P.O.),
Rasipuram Taluk 637 408, Namakkal District.

9.R.Thangavel, S/o Late Ramasamy,
Asarikadu, Pattanam Village,
R.Puduppalayam (P.O.),
Rasipuram Taluk 637 408, Namakkal District.

10.K.Natesan, S/o Late Kailasa Aasari,
Asarikadu, Pattanam Village,
R.Puduppalayam (P.O.),
Rasipuram Taluk 637 408, Namakkal District.

11.N.Selvam, S/o Natesan, Asari Kadu,
Pattanam Village, R.Puduppalayam(P.O.),
Rasipuram Taluk-637 408, Namakkal District.

12.P.Rathinam, S/o Late Perianna Asari,
Asarikadu, Pattanam Village, R.Puduppalayam (P.O.)
Rasipuram Taluk-637 408, Namakkal District.

13.K.Senthil Kumar, S/o Late Kandasamy,
Asarikadu, Pattanam Village, R.Puduppalayam (P.O.)
Rasipuram Taluk-637 408, Namakkal District.



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14.R.Sakthivel,
S/o Ramaamy, Door No.98/F4,
Rukkmani Street,
Krishnapuram, Ambattur,
Chennai 600 053.

15.L.Muthusamy (Rtd., Teacher),
S/o Late Lingappa Aasari,
32C, V.Nagar Road,
No.1, Rasipuram Taluk 637 408,
Namakkal District.

16.R.Amirthalingam, S/o Late Ramasamy,
Asari Kadu, Pattanam Village,
R.Puduppalayam(P.O.), Rasipuram Taluk 637 408,
Namakkal District.

17.V.Venkatachalam, S/o Vadivel,
Door No.80/9, Muthulakshmi Illam,
Mullai Nagar East, Sooramangalam Post,
Salem 636 005.

18.N.Madeswaran, S/o Natesan,
Kondiyankadu, Pattanam Village,
R.Puduppalayam (P.O.)
Rasipuram Taluk 637 408, Namakkal District.

19.P.Kumarasamy, S/o Periyasamy, Kondiyan Kadu,
Pattanam Village, R.Puduppalayam (P.O.)
Rasipuram Taluk 637 408, Namakkal District.

20.R.Venkatesan, S/o Late Ramakrishnan,
Chinamaniyar Thottam, Pattanam Village,
R.Puduppalayam (P.O.), Rasipuram Taluk 637 408,
Namakkal District.



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21.R.Srinivasan, S/o late Ramakrishnan,
Chinamaniyar Thottam, pattanam Village,
R.Puduppalayam (P.O.), Rasipuram Taluk 637 408,
Namakkal District.

22.R.Nainamalai Raj,
S/o Late Ramakrishnan,
Mangakattu, Periasamy Thottam,
R.Puduppalayam (P.O.)
Rasipuram Taluk 637 408,
Namakkal District.

(R7 to R22 impleaded vide order dated
25.08.2025 made in W.M.P.No.34121/2023
in W.P.No.30947/2023 by CJ, SMJ)

..Respondents

Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 3rd respondent to remove the encroachments made in the cart tack and pathway abutting the S.Nos.5/2C, 6, 8 and 9 running from West to East at Pattanam Village, Rasipuram Taluk, Namakkal District within a stipulated time.

For Petitioner :Mr.T.Saravanan

For Respondents :Mr.Dominic S.David, Govt.Counsel for R1 to R6
Mr.M.Prashanth
for Mr.T.Meghanathan for R9,R12,R13,R15 and R16
Mr.K.Sudhakar for R10,R11,R14 and R17
No appearance for R7, R8, R18 to R22



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ORDER

(Order of the Court was delivered by Dr.G.Jayachandran,J.)

The writ petition is filed stating that the petitioner is the owner of the land in S.Nos.9/1, 9/2, 9/3, 9/4A, 9/5A, 9/5C and 9/6 near Tri-junction, Pattanam Village, Rasipuram Taluk, Namakkal District seeking Mandamus to remove the encroachments made in the cart track and pathway abutting S.Nos.5/2C, 6, 8 and 9 running from West to East at Pattanam Village, Rasipuram Taluk, Namakkal District.

2. Initially when the writ petition was filed, the petitioner has chosen Principal Secretary, Revenue and Disaster Management Department; District Collector; District Revenue Officer; Revenue Divisional Officer; Tahsildar and Executive Officer as the respondents and thereafter, he has impleaded respondents 7 to 22 got themselves impleaded stating that behind their back, the writ petition filed and some interim order sought to be obtained. Thus, the avements made in the writ affidavit, after entry of the private parties found to be not fully-truth while the writ petitioner has contended that though the cart track runs in patta land of the private respondents it has been used as entry and exit in to his property and even if it is a patta land, the Revenue Standing Order clearly states that any Nilavazhi Pathai or canal running the patta land should be

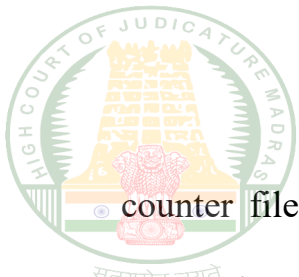


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treated as Government Land. Hence, the cart track running through the patta land of the private parties has to be considered as Government land and the encroachment made by the private respondents has to be removed.

3. The counter affidavit filed by the private respondents discloses that, claiming an easementary right over the said cart track, the predecessor-in-title through whom the writ petitioner purchased the property in the year 1983 had instituted a suit in O.S. No.170 of 1979 before the District Munsif Court, Rasipuram, for declaration of the easementary right, and that the suit ended in favour of the plaintiffs on 14.11.1983. Against the same, the defendants filed an appeal in A.S. No.72 of 1984 before the Subordinate Court, Namakkal and the same was allowed by the first appellate Court on 25.04.1985. Aggrieved by the same, the plaintiffs filed a second appeal in S.A. No.889 of 1986 before this Court and the same was dismissed on 21.01.1999. Pending the appeal, the petitioner had purchased the property.

4. The learned counsel appearing for the petitioner heavily relied upon the proceedings of the Tahsildar, wherein it has been reported that the cart track running through the patta land of the private respondents has to be considered as government land and therefore, fencing put up by the private respondents to be removed. In the



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counter filed by the 5th respondent/Tahsildar, Rasipuram, it is stated that there is no encroachment as alleged by the writ petitioner in the said survey numbers and therefore, there is no necessity for removing the encroachment as alleged by the writ petitioner. He also added that the writ petition had been filed with a personal motive and there is no merit in the above application.

5. Be that as it may, we are concerned about the fact regarding the nature of the cart track running cross the patta land of the private respondents 7 to 22. Already competent civil Court has gone into the facts and rival claim of the neighbouring land owners regarding the easementary right and the appellate court as well as the this Court has held that the cart track running through the patta land of the private respondents is not a public pathway. While so, the Revenue Standing Order as well as the judgments cited by the learned counsel appearing for the petitioner which deals about the pathway in patta land used by the general public will not apply to the case in hand, where admittedly, the pathway has never been a public pathway and civil court after trial has held that the neighbours cannot have any easementary right over the said pathway. While so, the owner of the land has every right to fence his property and neighbours cannot prevent the private respondents fencing the property to protect their land.



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6. The contention of the learned counsel appearing for the petitioner as if the survey numbers mentioned in the petition have been encroached and a public interest litigation petition has been filed suppressing the personal interest over the right as well as the real owners of the property disentitle him to claim remedy whatsoever. Therefore, neither on law nor on facts, this writ petition stands dismissed. No order as to costs.

(Dr.G.JAYACHANDRAN,J.) (N.MALA,J.)
03.07.2026

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Index:yes/no

Neutral citation:yes/no

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