

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI  
AND  
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P.No.23769 of 2014  
and  
M.P.No.1 of 2014

R.Kanniammal

...Petitioner

Vs.

1. The District Collector,  
Kancheepuram District at  
Kancheepuram.
2. The Tahsildar,  
Cheyyur Taluk,  
Cheyyur,  
Kancheepuram District.
3. The Assistant Director,  
(Village Panchayat),  
Collector's office at  
Kancheepuram.
4. The Village President,  
Anaicut Village & Post,  
Cheyyur Taluk,  
Kancheepuram District.

5. Karunanithi

6. Subramani alias Sukkiran

...Respondents

This writ petition is preferred under Article 226 of the Constitution of India praying for the issue of a writ of mandamus directing the first respondent to issue a direction to the second

respondent directing him to remove encroachment made in Survey No.32 part to Survey No.232 and also survey Nos.33 and 31 in between 100 meters and provide a cart track for free flow of ingress and egress to the agricultural land owners of Anaicut village, Cheyyur taluk, Kancheepuram District and also maintained the earlier status as per the revenue record as cart track.

For Petitioner : Mr.A.Ramu

For Respondents : Mr.P.S.Shivashanmughasundaram,  
Spl.G.P for RR1 to 4  
Mr.Praveen Sethia  
for Mr.K.G.Vasudevan for RR5 and 6

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

The petitioner is stated to be a resident of Anaicut village, Cheyyur Taluk, Kanchipuram District. On being aggrieved by the encroachment on the cart track, which leads to her agricultural land, the petitioner has come up with this petition, seeking a direction to the first respondent, i.e., the District Collector, Kanchipuram District to issue a direction to the second respondent to remove the encroachment made in S.No.32 part to S.No.232 and also S.Nos.33 and 31 in between 100 meters and provide a cart track for free flow of ingress and egress to the agricultural land owners of Anaicut village, Cheyyur Taluk, Kanchipuram District and also to maintain the earlier status as per the revenue record as cart track.

2. The facts in nutshell are that the petitioner is one of the villagers, who have agricultural lands. A cart track passes from S.No.32 to 232 for transportation of agricultural produce and other implements. Private respondents have made encroachments on the said cart track in S.No.32 part to S.No.232 and also S.Nos.33 and 31 in between 100 meters, causing hindrance to the free movement on the said cart track.

3. Notice was issued on 03.9.2014. The 6<sup>th</sup> respondent would submit that as per the revenue records, there is no cart track running through S.Nos.31,32 or 33. The 6<sup>th</sup> respondent had not encroached on any lands including cart track, which belongs to the Government or Village Panchayat.

4. The case of the 5<sup>th</sup> respondent is that there is no cart track as alleged, as the petitioner had failed to produce any document that the cart track exists in the said survey numbers and only the cart track (Vandi padhai) is mentioned in S.Nos.24, 27 and 37 and as per the sketch and as such, there is no cart track. It is further stated that the 5<sup>th</sup> respondent had not made any encroachment on the public land and also in the existing cart track which is used by the villagers.

5. The second respondent has filed a counter affidavit, stating clearly that a cart track passes through S.No.32 of Anaicut village, which has been encroached upon by the adjacent land owners for quite a long time and this is required to be removed. It is further clearly stated that the cart track poramboke in S.No.273/11 has been encroached and paddy crops have been sown and as such it cannot be removed before the end of February and the middle of March, 2015 as the crops are ripe for harvest.

6. We have heard the learned counsel for the parties, perused the pleadings and also affidavits filed by different parties.

7. The affidavits do not disclose the actual area of cart track. When the petitioner avers in her affidavit that there is an encroachment, the private respondents categorically refute that there is no cart track and also there is no encroachment. However, on perusal of the affidavit of the second respondent, it appears that there is a clear encroachment by adjacent land owners on the cart track. What is the location of the cart track is also not clear. However, according to the State Counsel, there is some encroachment in the cart poramboke in S.No.232/11 by raising paddy crops. The contention that there is paddy crop and it cannot be removed indicate lackadaisical approach of the authorities. If there is an encroachment by raising paddy crop, the encroachers do not deserve any sympathy on any ground, whatsoever.

8. The encroachment on the public land itself is an illegal act and the illegality cannot be perpetuated on the ground that after encroachment, paddy crops have been sown. The encroachment has to be curbed at any cost. Thus, we are of the considered view that if there is an encroachment on the cart track which provides proper transportation and easy access to agricultural lands of villagers and has now become impassable, the same has to be removed at the earliest. No resident shall be permitted to obstruct or block any pathway at any time.

9. Resultantly, we direct all the official respondents 1 to 4 to remove the encroachment, after affording proper opportunity of hearing to all encroachers, including fifth and sixth respondents, on the said cart track, within a period of four weeks from the date of receipt of copy of this order. Accordingly, this writ petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vvk

To

1. The District Collector,  
Kancheepuram District at  
Kancheepuram.
2. The Tahsildar,  
Cheyyur Taluk,  
Cheyyur, Kancheepuram District.
3. The Assistant Director,  
(Village Panchayat),  
Collector's office at  
Kancheepuram.
4. The Village President,  
Anaicut Village & Post,  
Cheyyur Taluk,  
Kancheepuram District.

1 CC to Mr.K.G.Vasudevan, Advocate SR.No. 4331

2 CCs to Mr.A.Ramu, Advocate SR.No. 3873

1 CC to the Government Pleader, SR.No. 4092

KK (CO)  
PSI (11.02.2015)

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