



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :14.09.2015

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P(MD).No.16468 of 2015

and

M.P(MD)No.1 of 2015

Suyambu

...Petitioner

Vs.

1.The Superintendent of Police,
Tirunelveli District, Tirunelveli.

2.The Deputy Superintendent of Police,
Valliyoor, Tirunelveli District.

3.The Inspector of Police,
Koodankulam Police Station,
Tirunelveli District.

...Respondents

This Writ Petition has been filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the first and second respondents to instruct the third respondent to take action against anybody else who attempt to close the pathway passing through the Survey No.918/1 at Koodankulam Village, Radhapuram Taluk, Tirunelveli District having breadth of 8 feet and length of 25 feet by considering the petitioner's representation, dated 04.09.2015.

For petitioner	: Mr.S.R.Anbarasu
For Respondents	: Mr.D.Muruganantham
	Additional Government Pleader

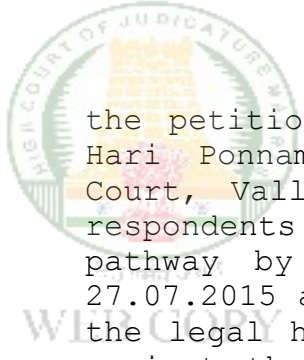
ORDER

This Writ Petition has been filed praying for a Writ of Mandamus directing the first and second respondents to instruct the third respondent to take action against the persons, who attempted to close the pathway passing through the Survey No.918/1 at Koodankulam Village, Radhapuram Taluk, Tirunelveli District having breadth of 8 feet and length of 25 feet by considering the petitioner's representation, dated 04.09.2015.

2. Mr.D.Muruganantham, learned Additional Government Pleader takes notice for the respondents.

3. By consent, the Writ Petition itself is taken up for final disposal.

4. The case of the petitioner is that a garden situated in Survey No.918/2 and 919/1 and 919/2 at Koodankulam Village was purchased by the grandfather of the petitioner by name Subramania Nadar by virtue of a registered sale deed dated 23.08.1943, 16.12.1947, 15.03.1954 and 23.03.1955 and in the above said sale deeds, pathway right has been clearly mentioned. As per the pathway right, the petitioner and his family members are using the pathway having breadth of 8 feet and length of 25 feet in Survey No.918/1. In respect of the same, the brother of



the petitioner filed O.S.No.195 of 2015 against the legal heirs of one Hari Ponnampala Nadar, before the learned Principal District Munsif Court, Valliyoor and in which an order of injunction restraining the respondents therein not to interfere with the use and enjoyment of the pathway by closing the same, was passed in I.A.No.1303 of 2015 on 27.07.2015 and the same is still in force. While the matter stood thus, the legal heirs of the said Hari Ponnampala Nadar foisted a false case against the petitioner and his brothers in Crime No.166 of 2015 as if they have damaged the fencing. In the said case, the petitioner and his brothers were granted anticipatory bail by this Court. Now the legal heirs of Hari Ponnampala Nadar are attempting to close the above pathway. Instead of taking action against those persons, the third respondent is also helping them. Hence, the petitioner made a representation on 04.09.2015 to take action against the persons, who attempted to close the pathway. But the same was not considered so far. Hence, the petitioner has come forward with the present Writ Petition for the above stated relief.

5. Considering the submissions made by the learned counsel for the petitioner, without going into the averments made in the Writ Petition, the second respondent is directed to consider the representation of the petitioner, dated 04.09.2015, on merits and in accordance with law, by affording an opportunity of hearing to all the necessary parties, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the claim made by the petitioner and it is for the second respondent to consider the same purely on merits.

With the above direction, the Writ Petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The Superintendent of Police,
Tirunelveli District, Tirunelveli.
- 2.The Deputy Superintendent of Police,
Valliyoor, Tirunelveli District.
- 3.The Inspector of Police,
Koodankulam Police Station,
Tirunelveli District.

+1cc to Mr.S.R.Anbarasu, Advocate SR.No.54260

+1cc to The Special Government Pleader, Madurai. SR.No.53943

W.P(MD).No.16468 of 2015
14.09.2015