



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.09.2016**

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE **S.NAGAMUTHU**
AND
THE HONOURABLE MR.JUSTICE **M.V.MURALIDARAN**

W.P. [MD] .No.15822 of 2016
and
W.M.P. (MD) No.11605 of 2016

Nazar Ali : Petitioner

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Municipal Commissioner,
Paramakudi Municipality,
Paramakudi,
Ramanathapuram.

3.Karthikeyan : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 and 2 to remove the encroachments on the public pathway at T.S.No.15, Block No.27, 'G' ward, behind L.I.C., Bharathi Nagar, Paramakudi, Ramanathapuram.

For Petitioner : Mr.S.M.A.Jinnah
For Respondent No.1 : Mr.T.R.Janarthanan,
Additional Government Pleader
For Respondent No.2 : Mr.M.Kannan

O R D E R

[Order of the Court was made by **M.V.MURALIDARAN, J.**]

The writ petitioner, namely, one Nazar Ali, has filed this Public Interest Litigation, seeking the issuance of a Writ of Mandamus, directing the first and second respondents to remove the encroachments on the public pathway at T.S.No.15, Block No.27, 'G' ward, behind L.I.C., Bharathi Nagar, Paramakudi, Ramanathapuram.



2. The case of the petitioner is that the third respondent has encroached upon a public pathway and put up constructions.

3. The second respondent has filed a counter-affidavit stating that the petitioner has not filed this Writ Petition in public interest and only to ventilate his private grievance, he filed this litigation, which is not maintainable. It is further stated in the counter-affidavit that one Sakina Beevi is the owner of the property in question and it was mentioned as "Theru" and it is not under the maintenance of the Municipality.

4. Apart from this, the petitioner has not given any specific survey number, whereas, he has produced the documents relating to Survey No.94/1B part. However, a perusal of the revenue records would show that it belongs to private party, who is the erstwhile owner of the third respondent. Since it is a private dispute between the parties, the Writ Petition, under the guise of Public Interest Litigation, is not maintainable. The Writ Petition is, therefore, dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To

1.The District Collector,
Ramanathapuram District, Ramanathapuram.

2.The Municipal Commissioner,
Paramakudi Municipality, Paramakudi, Ramanathapuram.

+1 cc to M/s.M.Kannan, Advocate in SR.No.57414

+1 cc to The Special Government Pleader in SR.No. 57909

CSL/SK-SKN/07.10.2016: 2P/5c

**Order made in
W.P. [MD].No.15822 of 2016
and W.M.P. (MD)No.11605 of 2016
Dated: 29.09.2016**