



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MS. JUSTICE V.M.VELUMANI

W.P. (MD) No.16829 of 2016

S.M.N.Madasamy

... Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Virudhunagar District.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Virudhunagar District.

... Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the Respondent No.2 to take appropriate action on the basis of the direction issued by the Respondent No.1 in O.Mu.G.2/9427/2016 dated 24.03.2016 by considering the representation submitted by the petitioner, dated 05.12.2015 within the time stipulated by this Court.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.V.R.Shanmuganathan
Special Govt.Pleader

ORDER

(Order of this Court was made by M.SATHYANARAYANAN, J.)

The Petitioner would claim that he is the resident of Door No.304/1, Masanam Kovil Street, Sundara Rajapuram Post, Rajapalayam Tauk, Virudhunagar District. He is residing there along with his family. He would claim that the village people are also using as common public path way, which is situated in Survey No.289/1 (Patta No.593) and it was encroached by Tvl.Alagurathinam and Alagar, by way of illegally registered Document Nos.939/2011 and 940/2011 respectively. In this regard, he submitted a



representation to the respondents on 05.12.2015 and though the Office of the District Collector vide Memo, dated 24.03.2016, has directed the jurisdictional Tahsildar to give a disposal of the application, no steps has been taken and hence, he came forward with this Writ Petition.

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2. Mr.R.Alagumani, the learned counsel appearing for the petitioner would submit that since a public pathway has been encroached by taking advantage of two registered Document Nos. 939/2011 and 940/2011. Despite representation, no action has been taken and hence, the petitioner has approached this Court.

3. Mr.V.R.Shanmuganathan, learned Special Government Pleader accepts notice on behalf of the respondents and he would submit that since according to the petitioner, the alleged public pathway in question is also subject matter of two registered documents, the remedy open to the petitioner, is to approach the competent civil forum.

4. This Court has considered the rival submissions and also perused the materials placed on record.

5. It is the specific case of the petitioner that the alleged public pathway has been encroached by Tvl.Alagurathinam and Alagar, taking advantage of 'illegal registered Document Nos. 939/2011 and 940/2011'. Thus, even according to the Petitioner, the said property has been covered under the said Sale Deeds and in the considered opinion of this Court, the points urged by the learned counsel appearing for the Petitioner as to whether it is a public pathway or not cannot be gone into by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India and the remedy open to the petitioner is to approach the competent civil forum.

6. In the result, the Writ Petition is dismissed. The petitioner if so advised he is at liberty to approach the competent civil form to work out his remedy, subject to the law of limitation. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(P&A)

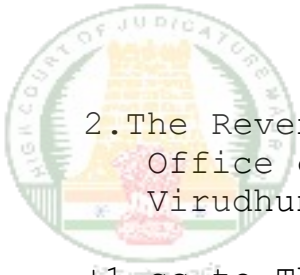
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Sub Assistant Registrar

To

1.The District Collector,

<https://hcservices.courts.gov.in/cser/index> District Collector,
Virudhunagar District.



2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Virudhunagar District.

+1 cc to The Special Government Pleader in SR.No. 50924

+1 cc to M/S.R.Alagumani, Advocate in SR.No. 50738

mpk

CSL/GSV-PM/20.09.2016: 3p/5c

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