



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE C.T.SELVAM

W.P. (MD) .No.3479 of 2016
and
WMP (MD) .No.2420 of 2016

1.A.Pappammal
2.Mrs.V.Ramu
3.V.Balusamy

... Petitioners

Vs

1.The District Collector,
Dindigul District, Dindigul.
2.The Revenue Divisional Officer,
Dindigul.
3.The Tahsildar,
Natham Taluk, Natham,
Dindigul District, Dindigul.

4.R.Shanmugam

... Respondents

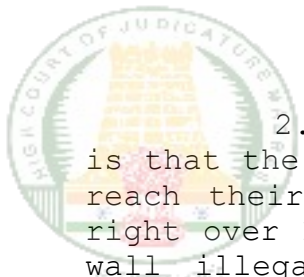
This Writ Petition has been filed under Article 226 of the Constitution of India praying for a Writ of Mandamus to direct the respondents 1 to 3 to take action on the representation made by the petitioners and to remove the illegal encroachment made by the fourth respondent in respect of the FE common pathway portion.

For petitioner : Mr.R.Naraynan
For R.1 to 3 : Mr.VR.Shanmuganathan
Special Government Pleader

ORDER

(Order of the Court was made by S.MANIKUMAR,J.)

Averments are made in the Writ Petition seeking for issuance of a Writ of Mandamus to direct the respondents 1 to 3 to take action on the representation made by the petitioner to remove the illegal encroachment made by the fourth respondent in respect of FE common pathway portion to the effect that, the petitioners access to their houses from Uluppakudi to Pannarpatti Road, through East-west common lane, 10 meter in length, and 4 meter width, and that the same has been encroached upon by the fourth respondent.



2. The further averment made in the paragraph 4 of the affidavit is that the petitioners are using FE portion common pathway, as access to reach their property. The fourth respondent has no manner of exclusive right over F and E common lane and he has fraudulently put up a compound wall illegally, with the help of the Revenue Officials. The illegal construction put up by the fourth respondent has encroached upon the common pathway and thus prevented the petitioners from the enjoying the common pathway resulting in the petitioners, in taking U turn, to use the union elementary school lane.

3. Entire averments in supporting affidavit would disclose that there is a private interest involved in respect of the right of the petitioners. In nutshell, the right of usage of the common pathway has been allegedly infringed by the fourth respondent. If that be the case, the petitioners have to approach the Civil Court to establish their rights regarding the existence of common pathway in F and E portion and usage by them. Remedy under Article 226 of the Constitution of India cannot be extended to enforce their private right over the property.

4. Thus Writ Petition lacks merits and the petitioner has not made out a case for issuance of Mandamus.

Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(records)

/True copy/

Sub Assistant Registrar

To

- 1.The District Collector,
Dindigul District, Dindigul.
- 2.The Revenue Divisional Officer,
Dindigul.
- 3.The Tahsildar,
Natham Taluk, Natham,
Dindigul District, Dindigul.

+1cc to the special Government Pleader SR.No.9983
+1cc to Mr.R.Narayanan, Advocate SR.No.9932

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