



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2016

CORAM:

**THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

W.P. (MD) No.388 of 2016

A.Duraipandi

: Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Madurai.

3.The Tahsildar,
Madurai East Taluk,
Madurai.

4.The President,
Kadhakinaru Village Panchayat,
Kadhakinaru,
Madurai District.

5.Kalyanasundaram

6.Sundaramoorthi

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, praying to remove the obstruction in the Public Pathway in the stretch of Survey Nos.18/4B, 18/5B, 18/4C, 18/5C, 18/6A and 18/6B situated at Kadachanenthall Village, Narasingam - III Bit, Madurai East Taluk, Madurai District.

For Petitioner : Mr.C.M.Mari Chelliah Prabhu

For Respondents : Mr.S.Chandrasekar
1 to 3 Government Advocate

For 4th Respondent : Mr.R.Velmurugan

For 5th Respondent : Mr.M.Siddharthan

**O R D E R*************[Order of the Court was made by S.NAGAMUTHU, J.]**

WEB COPY The petitioner is the elder brother of 5th respondent. He has come up with this Public Interest Litigation alleging that the public pathway in Survey Nos.18/4B, 18/5B, 18/4C, 18/5C, 18/6A and 18/6B situated at Kadachanenthall Village, Narasingam - III Bit, Madurai East Taluk, Madurai District, has been encroached by the 5th respondent.

2.The learned counsel for the 5th respondent would submit that there was a partition in their family in the year 2001, in which the above mentioned property has been allotted to the share of 5th respondent. Thus, it is the private property of the 5th respondent.

3.When we made a query, how the petitioner could describe the above property as public pathway, the learned counsel for the petitioner submitted that subsequent to the partition various portion of the property has been sold to a number of persons and all of them are using it as pathway.

4.The learned counsel for the 4th respondent would submit that only in the year 2015, the petitioner has gifted a portion of the property allotted to his share for public purpose. He would further submit that the 5th respondent has not gifted the above mentioned property.

5.From the above narration of the fact in dispute, it is crystal clear that the property does not belong either to Panchayat or any other public authority. Whether the petitioner got right of easement of usage is a matter to be decided before the Civil Court. Therefore, the Writ Petition deserves to be dismissed.

6.Accordingly, the Writ Petition is dismissed. However, the petitioner is at liberty to workout his remedy before the competent Civil Court. No costs.

Sd/-

Assistant Registrar (Writ)

/True Copy/

Sub Assistant Registrar



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Madurai District,
Madurai.

2. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Madurai.

3. The Tahsildar,
Madurai East Taluk,
Madurai.

+ 1 CC TO Mr.R.VELMURUGAN, ADVOCATE IN SR No. 65406
+ 1 CC TO Mr.M.SIDDHARTHAN, ADVOCATE IN SR No. 65236

SJ
TE/SS-2 : 14/11/2016 : 3P/6C

Order made in
W.P.[MD].No.388 of 2016
Dated: 01.11.2016