



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 07.12.2016
CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE P.KALAIYARASAN
W.P (MD)No.1158 of 2011

Liyakat Ali Khan .. Petitioner

Vs.

1.The District Collector,
Collectorate of District Collector,
Tirunelveli District,
Tirunelveli.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Tenkasi, Tirunelveli District.

3.The Tahsildar,
Office of the Tahsildar,
Tenkasi, Tirunelveli District.

4.Double @ Mohammed Ismail

5.The Commissioner,
Tenkasi Municipality,
Tenkasi, Tirunelveli District.

.. Respondents

(R - 5 impleaded as per order of the Court
dated 28.06.2011 in M.P(MD)No.1 of 2011)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 to 3 to remove the encroachment made in public pathway comprised in Survey No.1340/1, Block No.31, Tenkasi Municipality, by considering the petitioner representation, dated 22.11.2010 within the period stipulated by this Court and pass such further or other orders.

For Petitioner	: Mr.M.Natarajan
For RR 1 to 3	: Mr.R.Velmurugan Government Advocate
For R - 4	: Mr.S.Girish
For R - 5	: Mr.T.S.Mohammed Mohideen Additional Government Pleader

ORDER

[Order of the Court was made by A.SELVAM, J.]

THIS Writ Petition has been filed under Article 226 of the Constitution of India praying to direct the respondents 1 to 3 to



remove encroachments alleged to have been made in Survey No.1340/1, Tenkasi Village, by way of passing a Writ of Mandamus.

2.It is averred in the petition that Survey No.1340/1 has been classified as a pathway and a portion of the same is now under encroachments. A representation has been given on 22.11.2010 to the concerned authorities to remove encroachments. But action has not been taken. Under the said circumstances, the present Writ Petition has been filed for getting the relief sought therein.

3.The learned counsel appearing for the petitioner has contended to the effect that Survey No.1340/1 has been classified as a pathway and a portion of the same is now under encroachments and in order to remove the same, a representation, dated 22.11.2010 has been given. But the authorities have not taken any proper steps. Under the said circumstances, the present Writ Petition has been filed for getting the relief sought therein.

4.The learned counsel appearing for the fourth respondent has contended that the fourth respondent has not encroached any portion of the land in Survey No.1340/1 and therefore, the fourth respondent is an unnecessary party to the present proceedings.

5.It is seen from the records that the third respondent/Tahsildar has given a report to the effect that Survey No.1340/1 has been classified as a pathway. Further, in his report it is stated to the effect that if encroachment is removed, it would create law and order problem.

6.From a close reading of the report given by the third respondent, the Court can easily discern that Survey No.1340/1 has been classified as a pathway wherein in some portions encroachments have been made.

7.Considering the fact that Survey No.1340/1 has been classified as a pathway and in some portions of the same encroachments have been made, the respondents 1 to 3 can be directed to remove the same as indicated below.

8.In fine, this Writ Petition is allowed without costs. The respondents 1 to 3 are strictly directed to remove encroachments, which are in existence in Survey No.1340/1 within a period of two months.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar



To

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Tenkasi, Tirunelveli District.

3.The Tahsildar,
Tenkasi, Tirunelveli District.

4.The Commissioner,
Tenkasi Municipality,
Tenkasi, Tirunelveli District.

+1 cc to Mr.M.Natarajan,Advocate, Sr.No:14755

+1cc to M/S Special Government Pleader, Sr No.79975

ORDER MADE IN
W.P (MD) No.1158 of 2011
07.12.2016

ps

rum/22.12.2016/3p/7c