

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.09.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.24483/2017

Sriraman

..

Petitioner

Versus

1.The District Collector
Kancheepuram District,
Kancheepuram 631 501.

2.The Tahsilar
Chengalpet Taluk,
Chengalpet, Kancheepuram 631501.

3.The Block Development Officer
Kattangulathur Panchayat Union 603203.

4.The President
Oonamancherry Panchayat
Kolapakkam Post, Vandaloor [Viz] 600127.

5.Inbasekar

6.Rajendran

7.Indirapathy

8.Shanmugam @ Sehuraman

9.Krishnamurthy @ Chella

10.Selvi @ Chellam

11.Saravanan

..

Respondents

WEB COPY

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents 1 to 4 to remove encroachment on Periyar Road, Oonamancherry village, Kolapakkam Post, as per revenue records, thereby laying cement on the reclaimed area.

For Petitioner : Mr.P.Subba Reddy
For RR 1 to 3 : Mr.A.N.Thambidurai, Spl.GP

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice on behalf of the respondents 1 to 3.

2 The petitioner would aver that he is a permanent resident of Door No.141, Periyar Street, Oonamancherry Village, Kolapakkam Post, Vandaloor-600127 and the private respondents are residing on the North of the said street and according to the petitioner, the said Periyar Street runs West to East and it commences from Oonamancherry Main Road to the end of the agricultural land situate on the East of his house and it is having a breadth of 4.8 metres on its Eastern end and the said street is in existence from time immemorial and is being used by all the residence of the locality including the petitioner. Thus, all of them are entitled to use

the same as a public street. The grievance expressed by the petitioner is that the wife of the 5th respondent, viz. Tmt.Suguna, is the Ward Member of the Village Panchayat and misusing and abusing the position, they had encroached upon the public street and started putting up construction and in this regard, a legal notice was sent on 20.06.2016 to the respondents for which, they have given their response through a Lawyer on 02.07.2016 and took a stand that the pathway is in exclusive possession and enjoyment of the land admeasuring to an extent of 340 sq.m. or 3660 sq.ft. in S.No.494/47 and they and their predecessor in title are in continuous possession of the said extent and patta No.160 was also granted in their favour and as such, the claim made by the petitioner is wholly untenable.

3 The learned counsel for the petitioner has drawn the attention of this Court to the typed set of documents, especially photographs and would submit that the 5th respondent's wife is the Ward Member and taking advantage of the same and using political influence, the public street is being encroached and with absolute impunity, the private respondents are putting up the construction and thereby, the access of the

petitioner as well as the other residence is obstructed and hence, prays for appropriate orders.

4 *Per contra*, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents 1 to 3 would submit that from the reply submitted by the private respondents, it appears that there is a civil dispute and as such, the writ petition is not maintainable.

5 This Court has considered the rival submissions and also perused the materials placed before it.

6 The Assistant Director, Town Panchayat, Kancheepuram, in response to the notice sent by the petitioner through his Lawyer dated 20.06.2016, has sent an Urgent Note dated 30.06.2016 to the 3rd respondent to take appropriate action and inform the same to the petitioner.

7 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the same, permits the petitioner to submit one more

WEB COPY

representation to the 3rd respondent along with a copy of this order within a period of two weeks from the date of receipt of a copy of this order and the 3rd respondent, upon receipt of the same, shall put the respondents 4 to 11 on notice and after eliciting their response, if any, shall consider and dispose of the petitioner's representation on merits and in accordance with law, within a further period of eight weeks thereafter and communicate the decision taken, to the petitioner as well as to the respondents 4 to 11 herein.

8 The writ petition stands dismissed subject to the above observation. No costs.

[M.S.N., J.] [N.S.S., J.]
12.09.2017

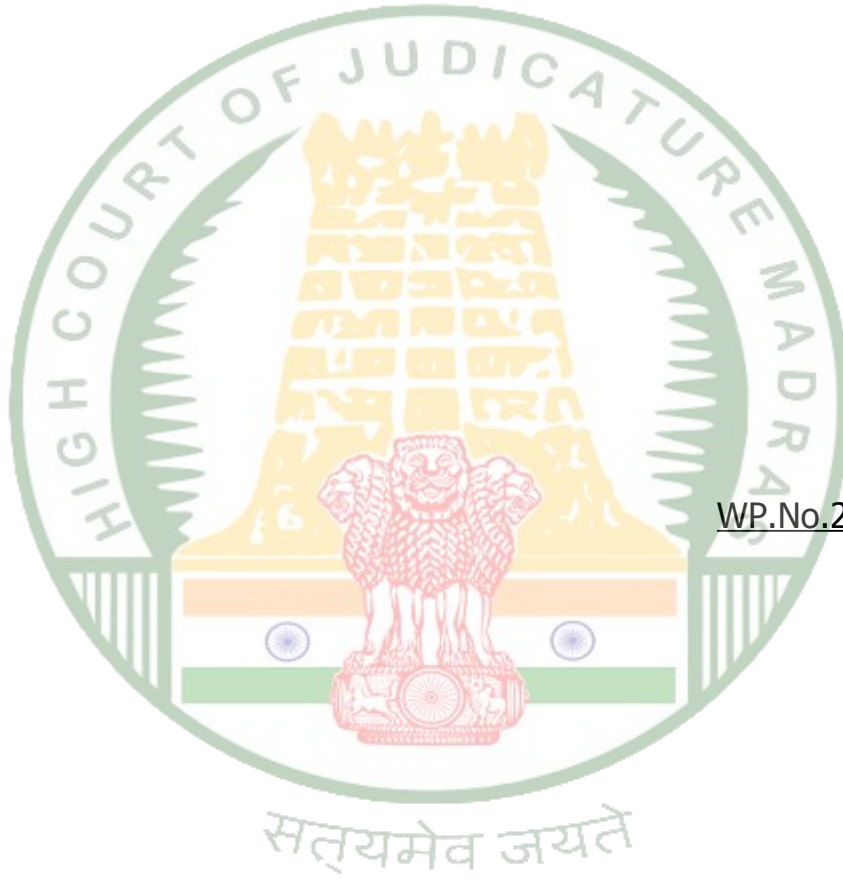
Internet : Yes

AP

To

- 1.The District Collector
Kancheepuram District,
Kancheepuram 631501.
- 2.The Tahsildar
Chengalpet Taluk
Chengalpet, Kancheepuram 631501.
- 3.The Block Development Officer
Kattangulathur Panchayat Union-603203.

M.SATHYANARAYANAN, J.
AND
N.SESHASAYEE, J.
AP



WP.No.24483/2017

WEB COPY

12.09.2017