



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

W.P(MD)No.3341 of 2017

Malaikannan

.. Petitioner

Vs.

1.The District Collector,
Sivagangai District, Sivagangai.

2.The Tahsildar,
Ilayangudi Taluk,
Sivagangai District.

3.Ramaiyah

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order made in Na.Ka.A1/331/2016 dated 05.01.2017 on the file of the second respondent and quash the same and directing the first respondent to remove the encroachment made by the third respondent in the pathway situated in Survey No.313/1 at Kachathanallur Village Group, Ilayangudi Taluk, Sivagangai District.

For Petitioner : Mr.V.Kannan

For Respondents 1 and 2: Mr.K.Guru,
Additional Government Pleader.

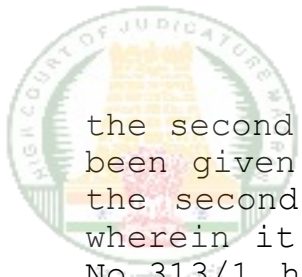
For Respondent No.3 : No appearance

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 call for records relating to the impugned order passed by the second respondent in Na.Ka.A1/331/2016 dated 05.01.2017 and quash the same, by way of issuing a writ of certiorarified mandamus.

2.The learned counsel appearing for the petitioner has contended with great vehemence to the effect that Survey No.313/1, Kachathanallur Village Group, Ilayangudi Taluk, Sivagangai District has been classified as a pathway, wherein certain encroachments are in existence and for the purpose of removing the same, the present petitioner as petitioner has filed W.P(MD)No.18631 of 2016 on the file of this Court, wherein a specific direction has been given to



the second respondent to consider the representation alleged to have been given by the petitioner in respect of alleged encroachment and the second respondent has passed the impugned order on 05.01.2017, wherein it has been erroneously mentioned to the effect that Survey No.313/1 has not been classified as a pathway and under the said circumstances, the present writ petition has been filed for getting the relief sought therein.

3.The learned Additional Government Pleader appearing for the respondents 1 and 2 has contended to the effect that in Survey No.313/1, therein is no pathway, but erroneously the same has been classified as a pathway and the second respondent after considering the factual situation has rightly passed the impugned order dated 05.01.2017 and therefore the relief sought in the writ petition cannot be granted.

4.It is an admitted fact that the present petitioner as petitioner has filed W.P(MD)No.18631 of 2016 on the file of this Court, wherein this Court has specifically directed the second respondent to look into the representation alleged to have been given by the petitioner. On the basis of the order passed in W.P (MD)No.18631 of 2016, the second respondent has conducted proper enquiry and subsequently passed the impugned order dated 05.01.2017, wherein it has been clinchingly stated to the effect that there is no pathway in Survey No.313/1, but the same has been wrongly classified as pathway.

5.Considering the fact that the second respondent has given a clinching finding to the effect that there is no pathway in Survey No.313/1 on ground, simply on the basis of wrong classification as a pathway, the Court cannot come to a conclusion that the impugned order passed by the second respondent is erroneous and therefore the relief sought in the writ petition cannot be granted.

6.In fine, this writ petition is dismissed without costs.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1.The District Collector,

Sivagangai District, Sivagangai.

2.The Tahsildar, Ilayangudi Taluk, Sivagangai District.

+1 CC to M/s.V.KANNAN, Advocate, SR No. 50599

SMN

PSM/SV-MMS/SAR2/12.04.2017/2P/4C