



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2017

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P. (MD) No.8735 of 2017

S.Fairoz Khan

: Petitioner

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Revenue Divisional Officer/ Sub-Collector,
O/o. Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.

3.The Tahsildar,
Keelakkarai,
Ramanathapuram District.

4.The Village Administrative Officer,
Kanchirakudi Village,
Keelakarai Taluk,
Ramanathapuram District.

5.The Commissioner,
Keelakkarai Municipality,
Ramanathapuram District.

6.Bashira Begam

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to remove the Steps and Portico constructed illegally and the illegal encroachments made by the sixth respondent on the common well and street comprised in Survey No.595/18 of Keelakkarai, Ramanathapuram District, on the basis of the Petitioner's representation dated 20.04.2017 within the time as fixed by this Court.

For Petitioner

: Mr.S.Sivakumar

<https://hcservices.ecourt.gov.in/hcservices/> For Respondents 1 to 4

: Mr.T.S.Md.Mohideen

Additional Government Pleader



For Respondent No.5
For Respondent No.6

: Mr.A.Kannan
: Mr.V.Sitharanjandas

O R D E R

WEB COPY [Order of the Court was made by G.R.SWAMINATHAN, J.]

This Writ Petition has been filed for directing the authorities to remove the Steps and Portico said to have been constructed illegally by the sixth respondent in Survey No.595/18 of Keelakkarai, Ramanathapuram District.

2.The writ petitioner has given a representation dated 20.04.2017 in this regard. Since no action was taken, he has filed the present writ petition.

3.Heard the learned counsel for the writ petitioner as well as the official respondents and also the sixth respondent.

4.The learned counsel for the sixth respondent brought to our notice that he had already filed O.S.No.172 of 2013, on the file of the District Munsif Court, Ramanathapuram and that on 22.02.2017, decree had been passed in his favour. The learned counsel for the sixth respondent would strenuously contend that it is not open to the official respondents to ignore the said judgment and decree given by the Competent Civil Court.

5.We went through the revenue records. It is beyond dispute that Survey No.595/18 of Keelakkarai, Ramanathapuram District is shown as a street. If a property is classified as public street in the revenue records, then it is open to the Civil Court to grant any decree to sustain the encroachment on public streets.

6.The learned counsel for the sixth respondent would submit that he has not committed any encroachment in Survey No.595/18, which has been shown as public street in the revenue records.

7.We therefore, direct the fifth respondent to conduct a survey and measure the property in question. Before conducting such survey and measurement, notice shall be issued to the writ petitioner as well as the sixth respondent. If any encroachment is noticed in the street in Survey No.595/18 of Keelakkarai, the fifth respondent shall take action for removal of the said encroachment. It is needless to add that before effecting removal of the said encroachment, the fifth respondent shall follow the process and procedure set out in the District Municipalities Act,



7. The Writ Petition is disposed of with the above direction.

Sd/-

Assistant Registrar (Writs)

/True Copy/

Sub-Assistant Registrar

To

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.

2. The Revenue Divisional Officer/ Sub-Collector,
O/o. Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.

3. The Tahsildar,
Keelakkarai,
Ramanathapuram District.

4. The Village Administrative Officer,
Kanchirakudi Village,
Keelakarai Taluk,
Ramanathapuram District.

5. The Commissioner,
Keelakkarai Municipality,
Ramanathapuram District.

+One cc to M/s.S.Sivakumar, Advocate, SR.No.68507
+One cc to Mr.V.Sitharanjandas, Advocate, SR.No.68425
+One cc to The Special Government Pleader, SR.No.68999

MR/TA/AKV

RL/9C/3P/GT/SAR1/28/8/2017