

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.3.2018

CORAM

The HON'BLE MR.JUSTICE M.VENUGOPAL

AND

The HON'BLE MR.JUSTICE S.VAIDYANATHAN

Writ Petition No.2229 of 2018

Mrs.A.SenthamaraiPetitioner

Vs

1.The District Collector, Namakkal
District. Namakkal-637003.

2.The District Revenue Officer,
Office of the District Collector,
Namakkal-637003.

3.The Revenue Divisional Officer,
Namakkal Division, Namakkal.
637001.

4.The Tahsildar, Senthamangalam
Taluk & Post, Namakkal District.
637409.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to take action on the petitioner's representation dated 2.1.2017 and thereby restore the common Thadam-Patha in survey No.255, 254, 253, 302, 252 and 112 in Varadharajapuram Village, Erumpatti, Senthamangalam Taluk, Namakkal District forthwith.

For Petitioner : Mr.V.Shivalingam

For Respondents : Mr.R.Udayakumar, AGP

Order of the Court was made by S.VAIDYANATHAN,J

Heard both.

2. The case of the petitioner is that there is a pathway in S.F.Nos.302 and 252 in Vandipathai poramboke and also in S.F.No.112, which is a poramboke land. The petitioner was having ingress and egress to reach the lands owned by her. However, some of the villagers have encroached the said lands and obtained patta fraudulently. According to the petitioner, as there is an

encroachment in the public pathway, she is unable to reach her lands and it has caused great hindrance to irrigation and cultivation of lands purchased by the respective owners. Further according to the petitioner, she made a representation dated 02.1.2017 to the first respondent to restore the common pathway in S.F.Nos.255, 254, 253, 302, 252 and 112 in Varadharajapuram Village, Erumpatti, Senthamangalam Taluk, Namakkal District. Since the same has not been considered, the petitioner is before this Court.

3. Today, the learned Additional Government Pleader appearing for the respondents has produced a topo-sketch and also the communication of the Revenue Tahsildar dated 23.2.2018 issued to the Additional Government Pleader wherein it has been stated that in S.F.Nos.302, 255, 254 and 253, there is a pathway, that there is a water course in S.F.No.252, that the petitioner is residing in S.F.Nos.137 and 138 Part and that there are no encroachments in any of the pathways or water course. It has been further stated that there is no clear averment with regard to the encroachments in those places and that the petitioner cannot make the Authorities to conduct a roving enquiry to remove the encroachments when there is no encroachment at all.

4. From the topo-sketch and the communication issued by the Tahsildar dated 23.2.2018, it is very clear that there is a pathway in S.F.Nos. 302, 255, 254 and 253 and that there is a water course in S.F.No.252. Adjacent to the water course, there are patta lands belonging to the petitioner in S.F.Nos.134/2 and 138/2B. There is no encroachment as alleged by the petitioner. The petitioner has to cross the water course to reach his lands and she is trying to utilize the private property as a pathway to enter her lands. As there is no specific averment denying those contentions made by the respondents, we are of the considered view that the relief sought for by the petitioner to consider her representation dated 02.1.2017 to restore the pathway in S.F.Nos.302, 255, 254 and 253, cannot be granted.

5. Accordingly, the writ petition is dismissed. No costs.

6. However, it is made clear that if any encroachment is made either in the pathway or in the water course, it is open to the respondent Authorities to remove the same.

Sd/-

ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

RS

To:

1.The District Collector,
Namakkal District. Namakkal-637003.

2.The District Revenue Officer,
Office of the District Collector, Namakkal -637003.

3.The Revenue Divisional Officer,
Namakkal Division, Namakkal. 637001.

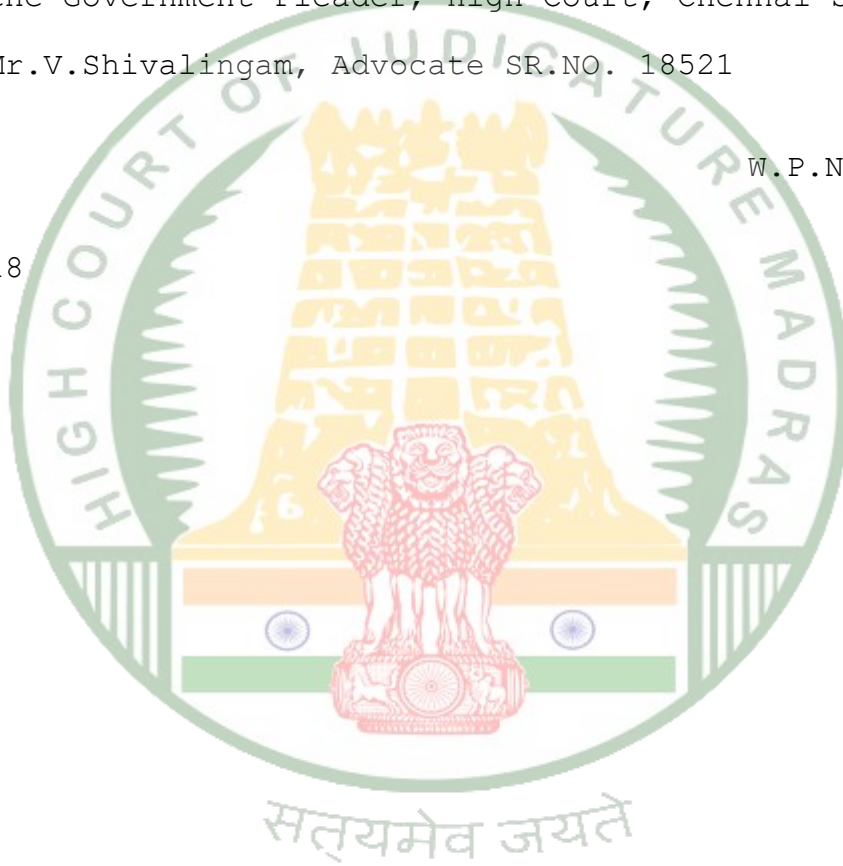
4.The Tahsildar,
Senthamangalam Taluk & Post,
Namakkal District. 637409.

+1 cc to the Government Pleader, High Court, Chennai SR.NO. 19253

+1 cc to Mr.V.Shivalingam, Advocate SR.NO. 18521

W.P.No.2229 of 2018

KK(CO)
JK 22/03/18



WEB COPY