

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2018

CORAM:

THE HON'BLE MR.JUSTICE M.VENUGOPAL
AND
THE HON'BLE Mrs.JUSTICE S.RAMATHILAGAM

W.P.No.22475 of 2018

K.Mathiyalakan

...Petitioner

vs.

1. The District Collector,
Dharmapuri District,
Dharmapuri
2. The District Revenue Officer,
Dharmapuri District,
Dharmapuri
3. The Revenue Divisional Officer,
Dharmapuri District,
Dharmapuri
4. The Tahsildar,
Nallampalli Taluk, Nallampalli
Dharmapuri District
5. The Block Development Officer,
Nallampalli Taluk, Nallampalli,
Dharmapuri District
6. Palaniammal,
The Tahsildar,
Nallampalli Taluk, Nallampalli,
Dharmapuri District
7. R.Senthil
8. C.Raman
9. C.Thailappan

.... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the Respondents 1 to 5 to consider the Petitioner's representation dated 10.11.2017 and thereby direct the Respondents 1 to 5 to take suitable action against the 7 to 9 Respondents and remove

the encroachment made in the public road situated in Survey No.655/1 of Kammampatti Village, Nallampalli Taluk, Dharmapuri District, runs from Soliyanur - Thoppaiyaru Road Junction to reach the Muniappan temple in the place of Konamadukadu, in the light of report given by the Village Administration Officer dated 17.11.2017 and 13.06.2018 and ensure the peaceful usage of the same by the Petitioner and others.

For Petitioner : Mr.B.Gopalakrishnan

For Respondents : Mrs.Rose Kamalam for R1 to R6
Government Advocate

O R D E R
(Order of the Court was made by M.VENUGOPAL,J.)

Heard the Learned Counsel for the Petitioner and the Learned Government Advocate for the Respondents 1 to 6. No counter is filed on behalf of the Respondents 1 to 6. To avoid an avoidable delay, notice to the Respondents 7 to 9 is dispensed with.

2. According to the Petitioner, his entire village community people are mainly relying upon agricultural work for their livelihood. There are more than 1000 numbers of villages nearby his village, viz., Kammampatti Village, Nallampalli Taluk, Dharmapuri District, which runs from Soliyanur-Thoppaiyaru Road Junction to reach the Muniappan Temple in the place of Konamadukadu, maintained by the Government, which exclusively meant for 'Ingress' and 'Egress' of their village and neighbourhood village people to reach their agricultural land, forest and Muniappan Temple. Even the said road in Survey No.655/1 of Kammampatti Village, Nallampalli Taluk, Dharmapuri District runs from Sholianur-Thoppaiyaru Road Junction to reach the Muniappan Temple in the place of Konamadukadu, being utilised by the entire village people for a long period of time without anybody's hindrance or interference. Further, the Block Development Officer, Nallampalli was approached by the Kammampatti village people, who expressed their ready and willingness to execute a gift deed in favour of the Government for their patta land properties to laying of thar road in the aforesaid public road.

3. The Learned Counsel for the Petitioner points out that the aforesaid proposal have accepted and accordingly, the Petitioner executed a gift deed on 10.01.2018, which was duly registered on the file of SRO Mechari in favour of the Commissioner of Panchayat Union, Dharmapuri District. After

registration of the Gift Deed, land is maintained by the Government, which is exclusively maintained for 'Ingress' and 'Egress' of the Petitioner's village to reach their agricultural land etc.,

4. The grievance of the Petitioner is that the Respondents 7 to 9 are encroaching and blocking the road for the usage of the same, they do not have any right over the public road situated in Survey No.655/1 of Kammampatti Village, Dharmapuri District maintained by the Government and to disturb the usage of the Petitioner and others is illegal.

5. A detailed representation was given by the Petitioner and his son in writing on 13.06.2018 to the Respondents 1 to 5 and based on that, the concerned Revenue Inspector had inspected the road and the Respondents 7 to 9 were directed to remove the obstruction made in the road, but, they had not done so and hence, the Revenue Inspector with the help of Police had removed the obstruction made in the road situated in Survey No.655/1 of Kammampatti Village, Nallampalli Taluk, Dharmapuri District.

6. It comes to be known that the Petitioner had addressed a representation to the Respondents 1 to 5 on 10.11.2017, which was received by the Respondents and based on the said representation, the concerned Revenue Inspector and Village Administrative Officer caused an enquiry and given the report on 17.11.2017 and 13.06.2018. Since no positive action was taken by the official Respondents, the Petitioner has filed the present Writ Petition praying for passing of an order by this Court in directing the Respondents 1 to 5 to consider his representation dated 10.11.2017 and to direct the aforesaid Respondents 1 to 5 to take suitable action against the Respondents 7 to 9 to remove encroachment in Survey No.655/1 of Kammampatti Village, Nallampalli Taluk, Dharmapuri District [runs from Soliyanur - Thoppaiyaru Road Junction to reach the Muniappan Temple] in the place of Konamadukadu, in the light of report given by the Village Administrative Officer dated 17.11.2017 and 13.06.2018.

7. It transpires that Village Administrative Officer of Kammampatti, Dharmapuri District on 17.11.2017 had given a sworn statement before the 4th Respondent inter alia stating that one C.Thaliappan, Son of Chinnamuthu Gounder had encroached the pathway by putting stone fence and caused disturbance in Survey No.655/1 and hence prayed for creation of pathway for the benefit of families residing in that area. Also that, the Village Administrative Officer, 30, Kammampatti, Nallampalli Taluk, Dharmapuri District, on 13.06.2018 had addressed a communication inter alia stating that one Senthil, son of Raji through Raman son of Chinnamuthu Gounder had encroached the

Government Puramboke land in Survey No.655/1 and hence prayed for removal of encroachment.

8. Considering the fact that the statement of Village Administrative Officer, 30, Kammampatti, Nallampalli Taluk, Dharmapuri District dated 17.11.2017 as well as the report of the Village Administrative Officer, 30, Kammampatti, Nallampalli Taluk, Dharmapuri District dated 13.06.2018 is in favour of the Petitioner, this Court, at this stage, simpliciter without going into the merits of the matter, directs the Respondent Nos. 1 to 5 to act based on the statement of the Village Administrative Officer dated 13.06.2018 addressed to the Tahsildar, Nallampalli Circle without any procrastination in the subject matter in issue and to dispose of the said representation of the Petitioner dated 10.11.2017 within a period of four weeks from the date of receipt of a copy of this Order. It is open to the Respondents 1 to 5 to pass a reasoned order on merits adverting to the facts mentioned in the said representation of the Petitioner. If the Authorities confirm / affirm the encroachment, as per the statement of Village Administrative Officer dated 17.11.2017 and 13.06.2018, they are at liberty to take such action, as they deem fit in removing the encroachment made by the Respondents 7 to 9 so as to restore the said land in Survey No.655/1 of Kammampatti Village, Nallampalli Taluk, Dharmapuri District to its original position.

With the aforesaid observations and directions, the Writ Petition is disposed of. No costs.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

ssd

To

1. The District Collector,
Dharmapuri District,
Dharmapuri
2. The District Revenue Officer,
Dharmapuri District,
Dharmapuri
3. The Revenue Divisional Officer,
Dharmapuri District, Dharmapuri

4. The Tahsildar,
Nallampalli Taluk, Nallampalli
Dharmapuri District

5. The Block Development Officer,
Nallampalli Taluk, Nallampalli,
Dharmapuri District

6. Palaniammal,
The Tahsildar,
Nallampalli Taluk, Nallampalli,
Dharmapuri District

+1cc to Mr.B.Gopalakrishnan, Advocate SR.No.59997

W.P.No.22475 of 2018

GMV (24/09/2018)



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