



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.[MD].No.4550 of 2018

P.Lasar : Petitioner

Vs.

- 1.The District Collector,
Tiruchirappalli,
Tiruchirappalli District-620 001.
- 2.The Revenue Divisional Officer,
Lalgudi, Tiruchirappalli-621 601.
- 3.The Tahsildar,
Manachanallur,
Tiruchirappalli-621 005.
- 4.The Superintendent of Police,
Tiruchirappalli, Tiruchirappalli District.
- 5.Irundayam
- 6.Vellankanni
- 7.J.Aron
- 8.J.Anthonysamy
- 9.Simiyon
- 10.Sagayaraj
- 11.Thomai Ammal
- 12.Miltonraj
- 13.Leo @ Joseph
- 14.Arockiyaraj
- 15.Lucas

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 3 herein to remove the encroachment of respondents 5 to 15 in S.Nos.556/1 and 557/1 situated in Irungala Post, Manachanallur Taluk, Trichy District and restore the same for public pathway utility as per representation of petitioner dated 02.02.2018.

For Petitioner : Mr.K.Appadurai

<https://hcservices.ecourts.gov.in/hcservices/>

For R1 to R4 : Mr.S.Dhayalan,



Government Advocate.
For R5 to R15 : Dispensed with.

O R D E R

[Order of the Court was made by T.S.SIVAGNANAM, J.]

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Heard Mr.K.Appadurai, learned counsel appearing for the petitioner and Mr.S.Dhayalan, learned Government Advocate, who accepts notice on behalf of the respondents 1 to 4. In the light of the directions, we propose to issue and on account of undisputed facts, notice to the respondents 5 to 15 is dispensed with.

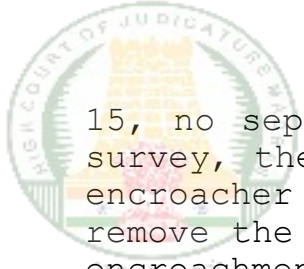
2.The petitioner claims that the private respondents have encroached the public pathway comprising in S.Nos.556/1 and 557/1 situated in Irungala Post, Manachanallur Taluk, Trichy District.

3.The learned counsel appearing for the petitioner has referred to the Adangal extract and submitted that both the survey numbers have been classified as "pathai" and the encroachment has to be removed and in this regard, he has submitted a representation to the respondents 1 to 4 on 02.02.2018, which has been received by the office of the respondents 1 to 4 on 06.02.2018 as seen from the postal acknowledgment cards.

4.The learned Government Advocate appearing for the respondents 1 to 4, on instructions from the third respondent, Tahsildar, submitted that both the survey numbers have been classified as 'pathway'. The third respondent received the representation, and directed his officials to conduct a survey of the area and the petitioner himself in this writ petition objected to the survey on account of the fact that he is also an encroacher.

5.If the submission made by the third respondent is correct, then the petitioner is guilty of obstructing Government servants from discharging their official duties, which is punishable under the Indian Penal Code.

6.Considering the submissions made on behalf of the Tahsildar, Manachanallur Taluk, the third respondent herein, we direct the third respondent to conduct a survey of the entire area, within a period of two weeks from the date of receipt of a copy of this order and we also direct the fourth respondent to give sufficient police protection to the third respondent and his officials for conducting survey. Before conducting survey, notice be served on the petitioner and the respondents 5 to 15 and any other persons, who are alleged to have encroached into the pathway and thereafter, after following the survey procedures, survey to be conducted and based on the survey, encroachment if any, shall be removed, within a period of two weeks, after the survey is completed. Since we have directed the third respondent to conduct survey in the presence of the petitioner and the respondents 5 to



15, no separate notice is necessary to them. Even at the time of survey, the area encroached should be marked in the presence of the encroacher and the third respondent can grant them a weeks time to remove the encroachment by themselves, failing which, the removal of encroachment shall be carried out by the third respondent departmentally and cost to be recovered from the encroachers proportionately. After the completion of the survey, the other directions which have been issued, shall be completed, within a period of three weeks therefrom.

7. With the above directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Tiruchirappalli,
Tiruchirappalli District-620 001.
2. The Revenue Divisional Officer,
Lalgudi, Tiruchirappalli-621 601.
3. The Tahsildar,
Manachanallur,
Tiruchirappalli-621 005.
4. The Superintendent of Police,
Tiruchirappalli, Tiruchirappalli District.

+1CC to Mr.K.Appadurai, Advocate, SR.No. 52783
+1CC to the Special Government Pleader SR.No.53353

ORDER MADE IN
W.P.[MD].No.4550 of 2018
05.03.2018

Myr/ta
AM/SKN RSK/SAR 2/12.03.2018/3P/7C