



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) No.5789 of 2018

C.Arasan

... Petitioner

-vs-

1. The Commissioner,
Madurai Corporation,
Anna Maligai,
Alagarkoil Road,
Madurai - 625 002.

2. R.Anthony
3. A.Savariyammal
4. A.Michel
5. A.Akanas
6. A.Gnana Arockiam
7. A.Devaarockiam

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, to direct the 1st respondent to consider petitioner's representation dated 02.01.2018 and to remove encroachments namely respondents 2 to 7 herein in common pathway in petitioner's house property from Eastern side 3 feet North 4 feet length which is used by petitioner and street people for the past several years within a stipulated time fixed by this Court.

For Petitioner : Mr.T.R.Subramanian

For Respondent : Mr.T.S.Md. Mohideen for R1

O R D E R

(Order of the Court was made by T.S.SIVAGNANAM, J.)

Heard Mr.T.R.Subramanian, learned counsel appearing for the petitioner and Mr.T.S.Md.Mohideen, learned standing counsel appearing for the first respondent Corporation.

2.The petitioner has filed this writ petition praying for a direction to the respondent Corporation to remove the encroachment stated to have been made by the respondents 2 to 7. From the photographs produced by the learned counsel for the petitioner, we prima facie find that it is a small pathway and appears to be a private passage and not a public road. Furthermore, the



construction as could be seen from the photograph appears to be in existence for quite a long number of years. Thus, the petitioner's attempt is to agitate his civil rights by way of a writ petition, which cannot be permitted.

3. Therefore, we cannot issue any direction in this writ petition as sought for. However, we make it clear that we have not expressed any opinion as to whether the pathway is a common pathway or a private passage or a public pathway and we leave it open to the petitioner to agitate the same before the appropriate forum.

4. This writ petition is dismissed accordingly. No costs.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

+1cc to Mr. T. R. Subramanian, Advocate Sr. No. 56314

+1cc to Mr. T. S. Mohamed Mohideen, Advocate Sr. No. 56338

ARUL

VB/KK/SAR3/02.04.2018/2P/3C

W.P. (MD) No. 5789 of 2018
20.03.2018