



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2018

CORAM

WEB COPY

**THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY**

W.P. (MD) No.6117 of 2015
and
M.P. (MD) .No.1 of 2015

V.Chinnasamy

... Petitioner

Vs.

1. The District Collector,
Dindigul,
Dindigul District.
2. The Block Development Officer,
Collectorate,
Dindigul District.
3. The Tahsildar,
Reddiyar Chatram Taluk,
Dindigul.
4. The Commissioner,
Kannivadi Town Panchayat,
Reddiyachathram Taluk,
Dindigul District.

5. Ponnusamy

... 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 4 herein to remove the encroachment in the pathway in Survey No.287/10, Kannivadi Village Reddiyar Chathram Taluk, Dindigul District, based on the representation dated 04.03.2017 and dispose the same within the time stipulated by this Court.

For Petitioner : Mr.S.Karthik
For R1 to R3 : Mr.VR.Shanmuganathan
Special Government Pleader

O R D E R

<https://hcservices.ecourts.gov.in/hcse/jcs/> **[Order of the Court was made by T.RAJA, J.]**

This writ petition has been filed seeking a writ of Mandamus



directing the respondents 1 to 4 herein to remove the encroachment in the pathway covered in Survey No.287/10, Kannivadi Village Reddiyar Chathram Taluk, Dindigul District, based on the representation dated 04.03.2017.

2. When the matter was taken up for hearing, learned counsel appearing for the petitioner requested as to take note of the stand taken by the Commissioner, Kannivadi Town Panchayat, Reddiyachathram Taluk, Dindigul District / the fourth respondent. In para-5 of the counter of the fourth respondent, it is stated as under:

"5. It is submitted that on the representation of the public dated 06.02.2014 and the proceedings of the higher officials the fourth respondent with the help of the Revenue officials survey the pathway in S.No.287/10 at Kannivadi Village and identified the encroachments and after that the encroachment was removed in front of the house of the fifth respondent as per law. Subsequently, the fifth respondent put up a Ganesha Idol and encroached the pathway and that was also intimated to the Revenue and Police official on 06.05.2014 and now the process is pending at this stage the petitioner filed this writ petition to evict the fifth respondent from the encroachment. The authorities taking proper steps to remove the encroachment as per law."

3. The fourth respondent has admitted that there has been an encroachment made by the fifth respondent. However, it is pleaded that in view of the pendency of the writ petition, he is unable to remove the same.

4. We are unable to find any justification for the reason mentioned for removal of the encroachment. Since the fourth respondent has admitted the case of the petitioner that the fifth respondent has encroached the pathway in Survey No.287/10, Kannivadi Village Reddiyar Chathram Taluk, Dindigul District, although this has been identified and removed, subsequently, the fifth respondent has put up a Ganesha Idol and once again encroached the pathway. Therefore, the Tahsildar, Reddiyarchatram Taluk, Dindigul / the third respondent and the Commissioner, Kannivadi Town Panchayat, Reddiyarchatram Taluk, Dindigul District / the fourth respondent are hereby directed to remove the encroachment within a period of one week from the date of receipt of a copy of this order. Accordingly, the writ petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (T&P)

/True Copy/



To

1. The District Collector,
Dindigul,
Dindigul District.

2. The Block Development Officer,
Collectorate,
Dindigul District.

3. The Tahsildar,
Reddiyar Chatram Taluk,
Dindigul.

4. The Commissioner,
Kannivadi Town Panchayat,
Reddiyachathram Taluk,
Dindigul District.

+ 1 CC TO Mr.S.KARTHIK, ADVOCATE IN SR No. 93158

AKV

TE/BK/SAR-4 : 07/12/2018 : 3P/6C

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