



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P(MD)No.22359 of 2017

A.Karthikeyan

... Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul - 624 001.

2.The Tahsildar,
Natham Taluk,
Dindigul District - 624 401.

3.Pappathi Ammal

4.Laxmanan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 and 2 to remove the encroachments on the passage/cart track running in Survey Nos.668/2, 668/3 and 668/13 of Sathampadi Village, Natham Taluk, Dindigul District.

For Petitioner	: Mr.S.I.Muthiah
For RR 1 & 2	: Mr.S.Satheesh Kumar, Additional Government Pleader.
For R - 3	: Mr.V.Ilayaraja
For R - 4	: No appearance

ORDER

(Order of the Court was made by M.SATHYANARAYANAN,J.)

The petitioner in the affidavit filed in support of the Writ Petition would aver among other things that he is an agriculturist and also doing social activities and according to him, the land comprised in Survey Nos.668/2, 668/3 and 668/13 of Sathampadi Village, Natham Taluk, Dindigul District, is classified as a pathway and it is also used as a cart track to reach the agricultural fields nearby and the respondents 3 and 4 had encroached upon the same and also put up a super structure without any permission or authorisation and in this regard, the Village people had submitted representations, dated 26.10.2017, 06.11.2017 and 24.11.2017 and despite receipt and acknowledgement, no action has been taken so far to remove the encroachment and hence, he came forward to file the present Writ Petition.



2.The Writ Petition was entertained on 07.12.2017.

3.The learned counsel appearing for the petitioner would submit that since the respondents 3 and 4 are unique encroachers on the land classified as a pathway, which is also used as a cart track to reach the agricultural fields nearby and it is the bounden duty of the official respondents to remove the encroachment, which is brought to the knowledge to them, no action has been taken so far and therefore, the petitioner is constrained to approach this Court by filing this Writ Petition.

4.Mr.S.Satheesh Kumar, learned Additional Government Pleader appearing for the official respondents would submit that the encroachers have been identified and action is also being taken against the encroachers, as per the provisions of the Tamil Nadu Land Encroachment Act, 1905 and as such, the grievance expressed by the petitioner has been redressed.

5.The learned counsel appearing for the third respondent would submit that the land in New Survey No.668/1 is classified as Natham and as such, the provisions of the Tamil Nadu Land Encroachment Act cannot have any application. The learned Additional Government Pleader appearing for the official respondents in response to the same would submit that the third respondent has put up super structure, which is projecting on the pathway and due process of law will be followed to evict all the encroachers.

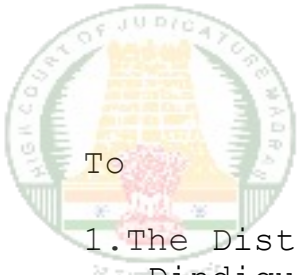
6.This Court has heard the rival submissions made on either side and perused the materials available on record.

7.In the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner this Court directs the second respondent, with the help of Jurisdictional Taluk Surveyor, to cause inspection of the lands in new Survey No.668/1, Sathampadi Village, Natham Taluk, Dindigul District, after putting the concerned persons on notice and depending upon the result of the same, shall take further action in accordance with law and complete the said exercise within a period of twelve weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as persons concerned.

8.This Writ Petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar(Writs)



To

1.The District Collector,
Dindigul District,
Dindigul - 624 001.

2.The Tahsildar,
Natham Taluk,
Dindigul District - 624 401.

+1cc to M/S.S.I.Muthiah, Advocate SR.No. 40487
+1cc to M/S.V.Ilayaraja, Advocate SR.No. 40600
+1cc to Special Government Pleader, SR.No. 40799

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PS
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