



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.03.2018

CORAM:

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

W.P (MD) No.22989 of 2017

P.Sundarraaj

.. Petitioner

Vs.

1. The District Collector,
Theni District, Theni.

2. The Tahsildar,
Andipatti Taluk,
Theni District.

3. Jeyachandran

4. Kasimayam

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the first and second respondents to remove the encroachment committed by the third and fourth respondents in the Cart Road in Survey No.87/1 and 87/2 at Vanathaipuram, Myladumparai Village, Andipatti Taluk, Theni District based on the proceedings of the second respondent in Na.Ka.No.343/2017/A3 dated 24.04.2017.

For Petitioner	: Mr.V.Sankaranarayanan
For Respondents 1 and 2	: Mr.M.Pandiarajan, Additional Government Pleader.
For Respondents 3 and 4	: No appearance

ORDER

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

Heard Mr. V.Sankaranarayanan, learned counsel appearing for the petitioner as well as Mr.M.Pandiarajan, learned Additional Government Pleader, appearing for the respondents 1 and 2.

2.The petitioner has filed this writ petition seeking to direct the respondents 1 and 2 to remove the encroachment committed by the respondents 3 and 4 in Survey Nos.87/1 and 87/2, Vanathaipuram, Myladumparai Village, Andipatti Taluk, Theni District.

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3.The petitioner's case is that there was a cart track in those survey numbers, which has been blocked by the private



respondents. A Filed Measurement Book sketch was produced before us, from which, we saw that there is a dotted line running across the lands and it is not a cart track and at best it can be described as a pathway.

4. The learned Additional Government Pleader appearing for the respondents 1 and 2 was directed to get instructions in the matter. Today, when the case was heard, the learned Additional Government Pleader appearing for the respondents 1 and 2, has produced a written instruction of the Firka Surveyor, Myladumparai Village, Andipatti Taluk, from which, it is seen that there was a pathway. But, there was no cart track. The cart track is comprised in Survey No.87/2 and it is stated that it is free from any encroachment. The problem was arisen on account of the Government taking a decision to sub-divide Survey No.87, in the year 2006. Survey No.87/2 was re-classified as pathway and Survey No.87/1 was divided into 2 acre plots and allotted to landless poor by giving free patta. The pathway, which the petitioner now claims to be found encroached, comes in between the lands, for which, the patta has been granted in the year 2006 to the landless poor. It is not known as to what the petitioner was doing for all these years and by efflux of time, it would be very difficult to restore *status quo ante*. However, considering the Filed Measurement Book sketch, which shows that there was a pathway, indicated in dotted lines, the respondents 1 and 2 can consider as to whether the pathway can be formed in the same place as shown in the Filed Measurement Book sketch or via an alternative route. If this is done, the grievance of the public of the area, who live on the other side of the lands, would be vindicated. Appropriate action be taken in this regard, by the second respondent within a period of three months from the date of receipt of a copy of this order.

5. The writ petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Theni District, Theni.
2. The Tahsildar,
Andipatti Taluk,
Theni District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 54592

SMN

TE/SKN-RSK/SAR-4 : 20/03/2018 : 2P/4C

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ORDER MADE IN
W.P (MD) No.22989 of 2017
09.03.2018