

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2019

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.22621 of 2018

V.Sabareeswaren

...Petitioner

Vs.

1. The District Collector,  
Coimbatore District, Coimbatore.
2. The Tahsildar,  
Pollachi Taluk,  
Pollachi, Coimbatore District.
3. The Village Administrative Officer,  
Kurumbapalayam Village,  
Pollachi Taluk,  
Coimbatore District.
4. M.Senthil Srinivasan
5. M/s.PKD Educational Trust,  
rep by its Founder-cum-Chairman  
D.Muthukumarasamy  
Kullakkaipalayam,  
Achipatti (Post), Pollachi Taluk,  
Coimbatore.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus to directing the respondents 1 to 3 herein to remove the fence put up by the respondents 4 & 5 herein in the middle of the cart track comprised in Survey No.106/7 of Kurumbapalayam Village, Pollachi Taluk, Coimbatore District within the time to be stipulated by this Court based on the representations dated 26.02.2018, 20.04.2018 and 10.05.2018.

For Petitioner : Mr.R.Murali

For Respondents: Mr.V.Jayaprakash Narayanan,  
Government Pleader (i/c)  
(R1 to R3)

Mr.S.Sivashankar  
for M/s.Sarvabhauman Associates  
(R4 & R5)

O R D E R

(Order of the Court made by the Hon'ble Chief Justice  
and M.Duraiswamy, J.)

The petitioner has filed the above Writ Petition as a Public Interest Litigation to issue a Writ of mandamus to directing the respondents 1 to 3 to remove the fence put up by the respondents 4 & 5 in the middle of the cart track comprised in Survey No.106/7 of Kurumbapalayam Village, Pollachi Taluk, Coimbatore District within a time frame based on the representations dated 26.02.2018, 20.04.2018 and 10.05.2018.

2.It is the case of the petitioner that there is a cart track running through the lands in Survey Nos.98/1, 98/1B, 98/3B, 106/7 and 108/3C of Kurumbapalayam Village and the said cart track is earmarked through the private patta lands and all the agriculturists have right to use the same to reach their respective lands situated on both sides of the cart track. Further, it is the case of the petitioner that the 5<sup>th</sup> respondent, after establishing various educational institutions in the lands in Survey Nos.106, 98 & 99 of Kurumbapalayam Village which is situated along side of the cart track, along with the 4<sup>th</sup> respondent have jointly encroached the said cart track by putting up fence with an ulterior motive to prevent other agriculturists to reach their lands from Kullakkaipalayam village road. The petitioner has also stated that the respondents 4 & 5 have obtained patta in their names in respect of the cart track.

3.The 2<sup>nd</sup> respondent viz., the Tahsildar filed a counter wherein he has stated that the Field No.106/7 is not registered under any kind of Government Poramboke classification such as Road, Pathai, Thadam and is registered only in the names of two pattadars jointly. Further, the 2<sup>nd</sup> respondent has stated that as per the entries found in the Village records of Kurumbapalayam Village S.F.No.106/7 measuring an extent of 0.25.0 hectares has been registered in the names of Angamuthu S/o Ammasigounder and

M.Senthil Srinivasan viz., the 4<sup>th</sup> respondent as patta lands. Further, the 2<sup>nd</sup> respondent has specifically stated that S.F.No.106/7 is a patta land and not any kind of Poramboke. The Nilaviyal cart track cannot be claimed as vested right like Poramboke by land owner or land owners whose lands are lying on both sides of the cart track.

4.Since the patta was issued in favour of the respondents 4 & 5, the petitioner can only establish his right before a Civil Court. Since the land in question is not a Poramboke, no direction can be given to the official respondents.

5.In these circumstances, the Writ Petition is devoid of merits and the same is liable to be dismissed. Accordingly, the Writ Petition is dismissed. No costs.

va

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,  
Coimbatore District, Coimbatore.
2. The Tahsildar,  
Pollachi Taluk,  
Pollachi, Coimbatore District.
3. The Village Administrative Officer,  
Kurumbapalayam Village,  
Pollachi Taluk,  
Coimbatore District.

+1cc to Mr.R.Murali, Advocate, S.R.No.10279/19  
+1cc to M/s.Sarvabhauman, Advocate, S.R.No.10425/19  
+1cc to the Government Pleader, S.R.No.10555/19.

W.P.No.22621 of 2018

sv (CO)  
kak (01/03/2019)