

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.No.13247 of 2017

Muniyandran

... Petitioner

Vs.

1. The District Collector,
Tiruvallur District,
Tiruvallur.
2. The Tahsildar,
Thiruthani Taluk Office,
Tiruvallur District.
3. The Inspector of Police,
Thiruvallur Police Station,
Tiruvallur District.
4. Mr.Narayanasamy ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents 1 to 3 to evacuate the fourth respondent in encroachment of the general path in Survey No.140 and to ensure the petitioner to use general path to cultivate land based on the petitioner's representation dated 06.05.2017.

For Petitioner : M/s.D.Ashok Kumar

For Respondents : Mr.S.N.Parthasarathy,
Govt. Advocate for RR-1 to 3
No appearance for R-4

ORDER

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

The Petitioner has filed the above Writ Petition praying for issuance of a Writ of Mandamus to direct the Respondent Nos.1 to 3 to evacuate the Fourth Respondent in Encroachment of the

general Pathway in Survey No.140 and to ensure the Petitioner to use general Pathway to cultivate Land based on the Petitioner's Representation dated 06.05.2017.

2. Heard the Learned Counsel for the Petitioner and the Learned Government Advocate for the Respondents 1 to 3. No counter affidavit is filed on behalf of the Respondent Nos.1 to 3. In respect of the Fourth Respondent, the Court notice was served as early as on 13.12.2018 and when the matter is taken up for hearing today, there is no representation on his side either in person or through a Learned Counsel.

3. According to the Petitioner, there is a Pond with general Pathway in Survey No.140 and the said Pathway is used to enter his Land and the other people are also using the said Pathway for numerous purposes, as it belongs to the Government. Near the Petitioner's Land, the Fourth Respondent's Land is situated in Survey No.137/5B and one year before, the Fourth Respondent had occupied the general Pathway and revamped the said Pathway. Later, the Public questioned the act of the Fourth Respondent and he has stopped the proceedings. In the month of March 2017, the Petitioner engaged a Tractor for loading Tubers and to cultivate his Land. When the Tractor was proceeding in the general Pathway, the Fourth Respondent's son Mr.Raji prevented and scolded the Petitioner and further stated that the said Pathway belongs to him and no one can use it.

4. The Petitioner gave a Petition on 13.03.2017 to the First Respondent in person and the same was forwarded to the Second Respondent and on 17.04.2017, the Petitioner gave an application to the Second Respondent/Tahsildar, Thiruthani Taluk, Tiruvallur District, to survey his Land. On the basis of the request of the Petitioner, the Surveyor of Thiruvallur District surveyed the Land of the Petitioner and the general pathway in front of the Fourth Respondent, elders of the Village and also the Village Administrative Officer (VAO). To the Petitioner's shock and surprise, Mr.Raji, son of the Fourth Respondent, rudely stated that even though the Pathway belongs to the Government, no one can enter upon it and if anyone enters with Vehicle, he would bruise the Vehicle. Further, Mr.Jayakumar, another son of the Fourth Respondent, mentioned that whatever may be the situation, he will face it in Court. These incidents took place in front of the Revenue Officials.

5. It is the further case of the Petitioner that he will have to till his Land for the purpose of Cultivation and by the act of the Fourth Respondent in preventing the Petitioner, the Petitioner is not able to Cultivate his Land and he could not take the Tubers from his Land, as a result of which, the Petitioner was perforced to address a Representation, dated

06.05.2017 to the Respondent Nos.1 and 2, with a copy marked to the Respondent No.3. However, till date, no action was taken. As a matter of fact, the Respondent Nos.1 to 3 being Public Servants, are under Public Duty to respond to the Petitioner's Representation, dated 06.05.2017. Since the Petitioner is left with no other option, he has filed the present Writ petition for redressal of his grievances and prayed this Court to pass an order directing the Respondent Nos.1 to 3 to evacuate the Fourth Respondent for 'Encroachment' made in the general Pathway in S.No.140, Kaatrayagunda Village, Veeraraghavapuram Post, Thiruthani Taluk, Thiruvallur District.

6. In view of the fact that the Petitioner's detailed Representation, dated 06.05.2017, addressed to the Respondent Nos.1 and 2, with a copy marked to the Third Respondent, had not met with any tangible/positive response, this Court, without traversing upon the merits of the contents of the matter mentioned in the said Representation of the Petitioner, dated 06.05.2017, at this stage, simpliciter, without delving deep into the subject matter in issue, directs the Respondent Nos.1 and 2 to look into the said Representation of the Petitioner, dated 06.05.2017 and take necessary action in regard to the removal of the 'Encroachment' made by the Fourth Respondent in the general Pathway, namely in S.No.140, Kaatrayagunda Village, Veeraraghavapuram Post, Thiruthani Taluk, Thiruvallur District and to restore the general Pathway for use of the Petitioner as well as the other general Public. It cannot be gain-said that a reasoned speaking Order is to be passed by the Respondent Nos.1 and 2 in the subject matter in issue, of course, in a just, fair, free, unbiased and dispassionate manner, within a period of one week from the date of receipt of a copy of this Order. In case the Respondent Nos.1 and 2 opines that the Fourth Respondent is to be given an opportunity of hearing to explain his stand, then they are at liberty to do so, and after hearing the Fourth Respondent or considering the Fourth Respondent's Representation in writing, if any, the Respondent Nos.1 and 2 shall take a Final Call in the subject matter in issue, of course, by adhering to the Principles of Natural Justice and also in the manner known to Law and in accordance with Law.

7. With the above observations and directions, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

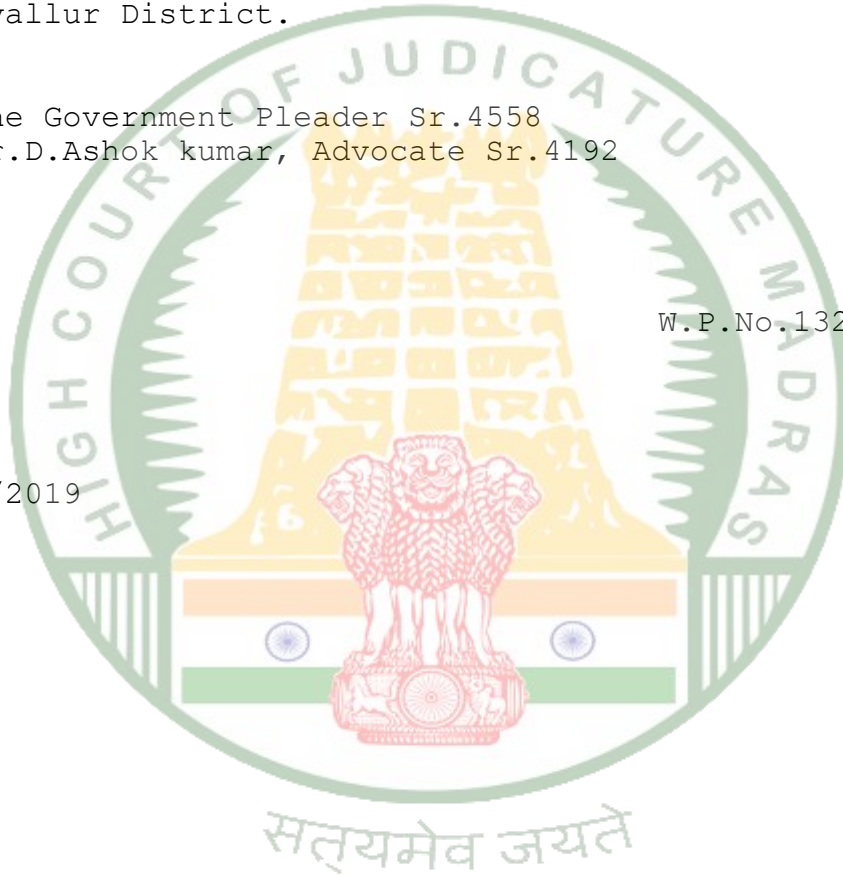
CS
To

1. The District Collector,
Tiruvallur District,Tiruvallur.
2. The Tahsildar, Thiruthani Taluk Office,
Thiruvallur District.
3. The Inspector of Police,
Thiruvallur District Police Station,
Thiruvallur District.

+1cc to the Government Pleader Sr.4558
+1cc to Mr.D.Ashok kumar, Advocate Sr.4192

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