

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 26.04.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) .No.5121 of 2019
and
W.M.P. (MD) .No.4086 of 2019

M.Joseph @ Jegadheesan

... Petitioner

Vs.

1. The District Collector,
O/o. District Collectorate,
Pudukottai,
Pudukottai District.
2. The Tahsildar,
Iluppur Taluk,
Pudukottai District.
3. The Executive Officer,
Iluppur Town Panchayat,
Pudukottai District.

4. Nirmala

... Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 1 to 3 to remove the encroachment made by the fourth respondent in the public pathway situated in Survey No.183/2B3, Iluppur Village, Pudukottai District, for an extent of (88.6x8) 708.8.sq.ft and thus retain the 20 feet width of the public pathway in its original position in the entire stretch towards east to west within a stipulated time as fixed by this Court.

For Petitioner

: Mr.C.Kishore

For R1 & R2

: Mr.Aayiram K.Selvakumar
Additional Government Pleader

For R3

: Mr.A.K.Baskarapandian
Special Government Pleader

**O R D E R**

(Order of the Court was made by **K.KALYANASUNDARAM, J.**)

Heard Mr.C.Kishore, learned counsel for the petitioner, Mr.Aayiram K.Selvakumar, learned Additional Government Pleader appearing for the respondents 1 and 2 and Mr.A.K.Baskarapandian, learned Special Government Pleader appearing for the third respondent. Private notice sent to the fourth respondent has been returned as 'unknown'.

2. The prayer in the writ petition is to issue a writ of Mandamus directing the respondents 1 to 3 to remove the encroachment made by the fourth respondent in a public pathway situated in Survey No.183/2B3, Iluppur Village in Pudukottai District in a time frame.

3. The grievance expressed by the petitioner is that the fourth respondent has encroached 20 feet public pathway formed in Survey No.183/2B3.

4. The learned counsel for the petitioner would state that representations were given by the petitioner and his brother Maria Soosai Nicholas for removal of the encroachment, but no action has been taken by the respondents 1 to 3.

5. The learned Additional Government Pleader appearing for the respondents 1 and 2 submitted that as per the revenue records, the Survey No.183/2B3 is a Patta land belongs to one Selvaraj. The petitioner relies on a gift deed dated 14.08.2014, in support of his case.

6. In the light of the limited scope of the prayer sought for in the writ petition and the submissions of the learned counsels on either side, this Court, without going into the merits of the matter, directs the respondents 2 and 3 to conduct enquiry on the representations of the petitioner and his brother Maria Soosai Nicholas, pass orders on merits and in accordance with law after providing opportunity to the petitioner and the fourth respondent within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //



To

1. The District Collector,
O/o. District Collectorate,
Pudukottai,
Pudukottai District.

2. The Tahsildar,
Iluppur Taluk,
Pudukottai District.

3. The Executive Officer,
Iluppur Town Panchayat,
Pudukottai District.

+1 CC to Mr.C.KISHORE, Advocate (SR-63139[F] dated 26/04/2019)

+1 CC to SPECIAL GOVERNMENT PLEADER (SR-63355[F] dated 27/04/2019)

W.P. (MD) .No.5121 of 2019
26.04.2019

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