



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: **23.04.2019**

CORAM:

THE HONOURABLE **MR.JUSTICE K.KALYANASUNDARAM**  
and

THE HONOURABLE **MRS.JUSTICE T.KRISHNAVALLI**

**W.P. (MD) No.5202 of 2019**

R.Gurusamy

...Petitioner

/Vs./

1.The District Collector,  
Tirunelveli.

2.The Commissioner,  
Kadayanallur Municipality,  
Tirunelveli District.

3.T.mariappan

...Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 and 2 to remove the encroachment made in the pathway by the third respondent within a time frame to be fixed by this Court.

|                |                                                            |
|----------------|------------------------------------------------------------|
| For Petitioner | : Mr.S.Kumar                                               |
| For R-1 & R-2  | : Mr.Aayiram K.Selvakumar<br>Additional Government Pleader |
| For R-3        | : Mr.A.Sankarasubramanian                                  |

**ORDER**

The prayer in the writ petition is to issue a writ of Mandamus directing the respondents 1 and 2 to remove the encroachment made in the public pathway by the third respondent within a time frame.

2.Heard Mr.S.Kumar, learned counsel for the petitioner; Mr.Aayiram K.Selvakumar, learned Additional Government Pleader for the respondents 1 and 2 and Mr.A.Sankarasubramanian, learned counsel appearing for the third respondent.

3.The grievance of the petitioner is that the third respondent has encroached upon the public pathway and despite the representations, no action was taken by the official respondents.

4.The learned counsel for the petitioner would state that the petitioner would be satisfied if a suitable direction is issued to the second respondent to consider his representation.

5.The learned counsel for the respondents 1 and 2 would state that they are ready to take action in accordance with law. It is the



submission of the learned counsel for the third respondent that it is not a public pathway and a suit in O.S.No.397 of 2018 was instituted by the third respondent before the Principal District Munsif, Tenkasi and unless a finding by a competent Civil Court, the present Writ Petition is not maintainable.

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6.However, considering the limited scope of the writ petition and considering the submissions made by the learned counsel on either side, without going into the merits of the case, this Court directs the second respondent to consider the representation of the petitioner dated 31.12.2018 and take appropriate action on merits and in accordance with law, after giving an opportunity of hearing to the petitioner and other necessary parties, if any, within a period of three months from the date of receipt of a copy of this order.

7.With the above direction, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The District Collector,  
Tirunelveli.

2.The Commissioner,  
Kadayanallur Municipalaity,  
Tirunelveli District.

+1cc to Mr.A.Sankarasubramanian, Advocate, SR.No. 62193

+1cc to Mr.S.KUMAR, Advocate, SR.No. 61750

+1cc to M/s.Special Government Pleader,SR.No. 62084

**W.P. (MD)No.5202 of 2019**  
**23.04.2019**

**RJ2**

**KK/SAR/09.05.2019/ 2P- 6C**

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