



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 26.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND

WEB COPY THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)NO.7543 OF 2019

R.Alagarsamy

:Petitioner

.VS.

1. The District Collector,
Madurai District,
Madurai.
2. The Tahsildar,
Melur Taluk,
Madurai District.
3. The Block Development Officer,
Melur Taluk,
Madurai District.
4. The Village Administrative Officer,
Keelavalavu Village,
Melur Taluk,
Madurai District.

5. Amsavalli

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 1 to 4 to remove the encroachments made by the fifth respondent in the pathway having an extent of 2.6 x 17.0 meters situated in S.No.476/4, connecting the Survey No.476/4 and the eastern portion of the Survey No.138/3 in Keelavalavu Village, Melur Taluk, Madurai District leading to the Petitioner's house on considering his representation dated 4.3.2019.

For Petitioner

: Mr.R.Shankar Ganesh

For Respondents
1,2 and 4

: Mr.VR.Shanmuganathan
Special Govt.Pleader

For Respondent-3

: Mr.R.Murugan
Addl.Govt.Pleader

For Respondent-5

: Mr.B.Stalin



O R D E R

[Order of the Court was made by **SENTHILKUMAR RAMAMOORTHY., J.**]

This Writ Petition is filed for a Mandamus directing the official respondents to remove the encroachment made by the fifth respondent in the pathway situated in S.No.476/4.

2. Heard the learned counsel appearing for the Petitioner and learned Special Government Pleader appearing for the respondents 1,2 and 4 and the learned Additional Government Pleader appearing for the third respondent and the learned counsel appearing for the fifth respondent.

3. The case of the Petitioner is that there is a pathway situated in S.No.476/4 ad-measuring an extent of 2.6 x 17.0 meters, connecting Survey No.476/4 and the eastern portion of S.No.138/5. It is stated that the said pathway is the only access to the residence of the Petitioner. He further stated that the said pathway has been encroached upon by the fifth respondent by constructing a water tank and toilet therein.

4. The learned counsel for the Petitioner submitted that the said S.No.476/4 is classified as a "Pathway" as per the Adangal which is enclosed at Page No.3 of the typed-set of papers. He further submitted that a representation, dated 4.3.2019 was submitted to the official respondents to take action to remove the encroachment. However, no such action was taken by the official respondents.

5. In response, the learned counsel for the fifth respondent submits that the property in S.No.476/4 is in the exclusive use of the said fifth respondent and that it is not actually a public pathway.

6. In view of the fact that there is a dispute as to whether the subject-matter property is a public pathway or not, without expressing any opinion on the merits of the dispute, We direct the Second respondent/Tahsildar along with Taluk Surveyor to inspect the subject-matter property and carry out a survey so as to ascertain whether it is a private property of the fifth respondent as claimed by him or a public pathway as alleged by the Writ Petitioner. Based on such survey, the official respondents are directed to take further steps in the matter. Such survey shall be concluded within a period of four weeks from the date of receipt of a copy of this order. In the event that it is concluded on the basis of the survey that it is a public pathway, ~~proceeding for~~ removal of encroachment shall be taken by the official respondents in accordance with the Tamil Nadu Land



Encroachment Act, 1905, within a period of two weeks after obtaining the survey report.

7. With the above directions, the Writ Petition stands disposed of. No costs.

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Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS)

vsn

To

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Madurai District,
Madurai.
2. The Tahsildar,
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Madurai District.
3. The Block Development Officer,
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Madurai District.
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Keelavalavu Village,
Melur Taluk,
Madurai District.

- + 1 CC TO Mr.R.Shankar Ganesh, ADVOCATE IN SR No.71737
- + 1 CC to The Special Government Pleader SR.No.72195

ORDER MADE IN
W.P(MD) No. 7543 of 2019

26.06.2019

KS (04.07.2019) 3 P 7 C