



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No.9692 of 2019

Easaiya

... Petitioner

-VS-

1.The District Collector,
Collectorate Building,
Dindigul District.

2.Mariappan

3.Singaram Chettiar

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the 1st respondent to consider the petitioner's representation dated 25.03.2019 to remove of unauthorised construction which is established by the 3rd and 4th respondent at survey No.391 in K.C.Patti Village, Kuppammal P.O., KodaiKanal Taluk Dindigul District.

For Petitioner : Mr.SA.Moorthy
For Respondents : Mr.A.K.Baskarapandian,
Spl.G.P. for RR1

O R D E R

[Order of the Court was made by S.S.SUNDAR, J.]

This writ petition has been filed seeking for a writ of Mandamus to consider the representation dated 25.03.2019 to remove the unauthorised construction allegedly established by the respondents 2 and 3 in survey No.391 in K.C.Patti Village, Kuppammal P.O., Kodaimanal Taluk Dindigul District.

Sum and substance the contention of the petitioner is that there is an encroachment by the respondents 2 and 3 in a common pathway to the width of 55 feet. The petitioner has not furnished any material to show that a pathway of 55 feet width is in existence and no revenue records has been produced in support of the same.



This issue normally cannot be decided by this Court in a writ petition. Since the petitioner has submitted a representation to the first respondent on 25.03.2019, without going into the merits of the contention raised by the petitioner in this writ petition, this Court is inclined to pass the following direction:

"The first respondent is directed to consider the representation of the petitioner and pass orders after giving opportunity to the respondents 2 and 3. It is open to the first respondent to find out whether the public pathway is encroached as alleged by the petitioner by any construction put up by encroaching into the public pathway. If there is any bonafide dispute regarding title or the respondents 2 and 3 are in settled possession following the Full Bench judgment of this Court in the case of **Ramaraju Vs. State of Tami Nadu and others reported in (2005)2 CTC 741**, the first respondent may direct the parties to approach the civil Court to establish their title. In case of encroachment where it is established that respondents 2 and 3 are in unlawful and unauthorized possession, the first respondent may direct the appropriate authorities to remove encroachment following due process. This exercise shall be done within three months from the date of receipt of a copy of this order."

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

Sd/-

Assistant Registrar (WRITS)

// True Copy //

Sub Assistant Registrar (CS)

Arul
To
The District Collector,
Collectorate Building,
Dindigul District.

+1cc to M/S. S. MOORTHY, Advocate, Sr.No.62186
+1cc to M/S SPECIAL GOVERNMENT PLEADER, Sr.No.62448

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