



WEB COPY

W.P.(MD).No.13395 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.09.2019**

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.P. (MD).No.13395 of 2019

and

W.M.P. (MD).No.9965 of 2019

Dr.R.Madhuvaran

... Petitioner

Vs.

1.The District Collector,
Sivagangai District Collectorate,
Sivagangai.

2.The Superintendent of Police,
Sivagangai District S.P.Office,
Sivagangai.

3.The Assistant Director of Land Survey,
Sivagangai District Land Survey Department,
Office at Sivagangai District Collectorate,
Sivagangai.

4.The Revenue Divisional Officer,
R.D.O.Office,
Devakottai, Sivagangai District.

5.The Tahsildar,
Thiruppathur Taluk Office,
Thiruppathur,
Sivagangai District.

6.C.Kasinathan

7.M.Balu

... Respondents

PRAYER: This petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 5 herein to remove the encroachment made by the 6th and 7th respondents herein in Survey No.426/54 in Alampatti Village Panchayat, Thiruppathur Taluk, Sivagangai District within stipulate time fixed by this Court.

For Petitioner: Mr.R.R.Thamothar Raj

For R1 to R5 : Mr.A.K.Baskara Pandian

<https://hcservices.ecourts.gov.in/hcservices/>

Additional Special Pleader



For R6 & R7 : Mr.R.Ponkarthikeyan

ORDER

(Order of this Court was made by **T.S.SIVAGNANAM, J**)

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Heard Mr.R.R.Thamothar Raj, learned counsel appearing for the petitioner and Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing for the respondent Nos.1 to 5 and Mr.R.Ponkarthikeyan, learned counsel appearing for the fifth respondent.

2.By consent of either side, this writ petition is taken up for disposal.

3.The petitioner has come forward with this writ petition alleging that the respondents have encroached into a Government property/public pathway.

4.It is not in dispute that there are personal issues between the petitioner and the respondents 6 and 7 and the sixth respondent is a former President of the Village Panchayat. The petitioner would state that no action has been initiated by the authorities.

5.The learned counsel for the sixth and the seventh respondents has filed a typed set of papers and counter affidavit stating that an inspection was conducted by the authorities in the presence of the petitioner and his father and the respondents 6 and 7. According to the learned counsel, this fact has been suppressed in the affidavit filed in support of the writ petition.

6.Be that as it may, if the inspection has already been conducted, then the appropriate authorities, either the fourth or the fifth respondent should pass an order clearly stating that as to whether there is an encroachment or not. In the event, there is no encroachment that should be intimated to the petitioner, so that if the petitioner is aggrieved, he may seek for other remedy. On the contrary, if there is an encroachment, then the fifth or sixth respondent should be put on notice, so that action can be initiated for removal of encroachment. Therefore, the above procedure has to be necessarily be followed by the respondents 4 and 5.

7.With the above observations, we direct the fourth and fifth respondents to pass appropriate orders, based on the inspection, which was conducted and one more opportunity may be granted to the petitioner and the sixth and seventh respondents to



place any document or material before the respondents 4 and 5. The competent authority shall comply with the above direction within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To

1.The District Collector,
Sivagangai District Collectorate,
Sivagangai.

2.The Superintendent of Police,
Sivagangai District S.P.Office,
Sivagangai.

3.The Assistant Director of Land Survey,
Sivagangai District Land Survey Department,
Office at Sivagangai District Collectorate,
Sivagangai.

4.The Revenue Divisional Officer,
R.D.O.Office,
Devakottai, Sivagangai District.

5.The Tahsildar,
Thiruppathur Taluk Office,
Thiruppathur,
Sivagangai District.

+1 CC to M/s.R.R. THAMOTHARRAJ, Advocate (SR-87742[F] dated 19/09/2019)

+1 CC to M/s.R.PONKARTHIKEYAN, Advocate (SR-87725[F] dated 19/09/2019)

NS

W.P. (MD) .No.13395 of 2019

and

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