



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2019

CORAM

THE HONOURABLE MR. JUSTICE K. KALYANASUNDARAM

and

THE HONOURABLE MRS. JUSTICE R. THARANI

W.P. (MD) .No.24655 of 2018

A. Jayakumar

... Petitioner

Vs.

1. The District Collector,
Tirunelveli District,
Tirunelveli.
2. The Revenue Divisional Officer,
Tenkasi Sub Division,
Tirunelveli District.
3. The Tahsildar,
Alankulam Taluk,
Tirunelveli District.

4. Thavasinathan

... 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 herein to remove the encroachment of the public pathway situated in S.No.1298/27 in Melapattamudayarpuram Village, Keelapavur - II, Alankulam Taluk, Tirunelveli District made by the fourth respondent and consider the petitioner's representation, dated 19.11.2018.

For Petitioner	: Mr.M.Prabu
For R1 to R3	: Mr.M.Pandiarajan Additional Government Pleader
For R4	: Mr.D.Venkatesh

O R D E R

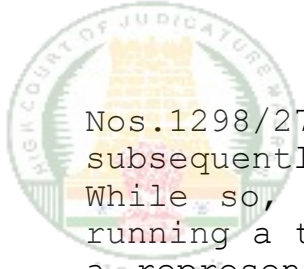
(Order of the Court was made by **K. KALYANASUNDARAM, J.)**

The petitioner has come up with the writ petition seeking issuance of writ of Mandamus directing the respondents 1 to 3 to remove the encroachment in S.No.1298/27 in Melapattamudayarpuram Village, Keelapavur - II, Alankulam Taluk, Tirunelveli District, by considering his representation, dated 19.11.2018.

2. Heard Mr.M.Prabu, learned counsel for the petitioner, Mr.M.Pandiarajan, learned Additional Government Pleader for respondents 1 to 3 and Mr.D.Venkatesh, learned counsel for the fourth respondent.

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

3. The case of the petitioner is that the property in Survey



Nos.1298/27 and 1298/28 was originally classified as Natham and subsequently, it was reclassified as pathway in the revenue records. While so, the fourth respondent has encroached upon the land and running a tea stall in Survey No.1298/27. Hence, the petitioner made a representation, dated 19.11.2018 to the official respondents to remove the encroachment. Since no action has been taken, the present writ petition has been filed.

4. The fourth respondent has filed a counter stating that the property in Survey No.1298/27 was originally owned by one Rama Nadar and a Patta was also issued in his name in Patta No.4051. The legal heir of the original owner has leased out the property to the fourth respondent for running a tea stall and as such, he has been running the business for the past ten years. It is further stated that by a registered sale deed, dated 20.07.2018, he purchased the property. The land was originally classified as Natham, however, without issuing notice to the land owners, it was wrongly classified as a street during UDR period and hence, the vendors of the fourth respondent made an objection, dated 28.11.2016 to the respondents 1 to 3 for reclassification of the land and on the basis of his objection, the second respondent directed the third respondent to conduct an enquiry.

5. In the case on hand, admittedly the land in dispute was originally classified as Natham land and subsequently it was reclassified as Street, when the survey was conducted under the UDR Scheme. It is contended by the fourth respondent that the classification was made without notice to the original owner viz., Rama Nadar and Sankara Narayanan. It is further stated that an enquiry is pending before the second respondent, based on the objection of reclassification by the fourth respondent's vendor.

6. In the light of the above facts, we are of the considered opinion that the petitioner is not entitled for the prayer sought for in the writ petition at this juncture. The respondents 1 to 3 shall consider the objection of the original owner with regard to reclassification of the land and pass appropriate orders, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. Since the fourth respondent claims right over the property, he is permitted to raise objection before the concerned authority, which shall be considered on its own merits.

7. This writ petition is disposed of, with the above observations and directions. No costs.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/



To

1. The District Collector,
Tirunelveli District,
Tirunelveli.

2. The Revenue Divisional Officer,
Tenkasi Sub Division,
Tirunelveli District.

3. The Tahsildar,
Alankulam Taluk,
Tirunelveli District.

+1cc to Mr.M.Prabu, Advocate, SR.No.50205

+1cc to Special Government Pleader, SR.No.50679

+1cc to Mr.D.Venkatesh, Advocate, SR.No.50783

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SP/05.04.2019/ 3P/7C