



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **27.09.2019**
CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mrs.JUSTICE R.THARANI

W.P. (MD) .No.8785 of 2019

P.Jesuthasan ... Petitioner
Vs.

- 1.The District Collector,
Kanyakumari District,
Nagercoil.
- 2.The Revenue Divisional Officer,
Patmanapapuram Kottam,
Thucalay.
- 3.The Tahsildar,
Kalkulam Taluk,
Thucalay,
Kanyakumari District.
- 4.The Village Administrative Officer,
Kumarankudi Revenue Village,
Senkodi Village,
Kanyakumari District.
- 5.Executive Officer,
Verkilampi Town Panchayat,
Kallankuli Village,
Kanyakumari District.

6.T.Subash Bose ... Respondents

PRAYER: This petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 5 to consider the petitioner's representation dated 19.03.2019 to remove the illegal encroachment made by the 6th respondent in Verkilampi to Mulavilai Road and consequently direct to transfer the patta of Survey No.184/3 of Kumarankudi Village as puramboke road in the land Revenue records.

For Petitioner : M/s.Punitha Deva Kumar
For R1 to R4 : Mr.S.Angappan
Government Advocate



For R6 : Mr.Mohammed Imran
for M/s.Ajmal Associates
For R5 : Mr.J.Gunaseelan Muthiah
Standing Counsel

ORDER

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

Heard M/s.Punitha Deva Kumar, learned counsel appearing for the petitioner, Mr.S.Angappan, learned Government Advocate appearing for the respondent Nos.1 to 4, Mr.Mohammed Imran, learned counsel appearing for the sixth respondent and Mr.J.Gunaseelan Muthiah, learned Standing Counsel appearing for the fifth respondent.

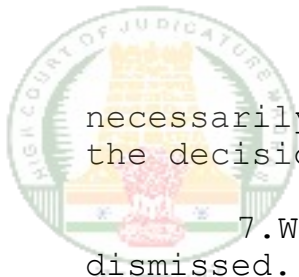
2.The petitioner seeks for a direction to consider his representation and remove the encroachment made by the sixth respondent in a pathway.

3.The case of the petitioner is that the land where the pathway was being gifted in favour of the Government by gift deed dated 05.02.2014 registered as Document No.254/14. Though the gift was executed, the Revenue records were not mutated by the Government by mentioning the land as pathway.

4.Taking advantage of that, the sixth respondent is attempting to construct by encroaching the pathway. This was brought to the knowledge of the official respondents by way of representation and in spite of the direction issued to the higher authorities, no action has been taken and therefore, the petitioner is before this Court.

5.The learned counsel appearing for the sixth respondent submitted that there is no bonafide in this public interest litigation and it is filed only with a view to extract money from the sixth respondent. Further, it is submitted that the property in question could not have been gifted to the Government and the gift deed is not valid and there are 13 legal heirs to the original owner and all of them have not executed the gift deed. It is further submitted that there are three suits are pending before the District Munsif Court, Patmanapapuram in O.S.Nos.104 of 2017, 255 of 2017 and 153 of 2017 and the latest suit, which has been filed in the year 2019. There are 8 plaintiffs and 9 defendants and the District Collector, Kanyakumari District and the Executive Officer from Verkilampi Town Panchayat, are the 8th and 9th defendants in O.S.No.133 of 2019, wherein declaration is sought for to declare the gift deed dated 05.02.2014 as null and void.

6.In the light of the dispute between the parties and the matter is seized of by the civil Court, a direction sought for by the writ petitioner in the writ petition cannot be granted and



necessarily the authorities, the petitioner and others have to await the decision of the civil Court.

7. With the above observation, this Writ Petition stands dismissed. No costs.

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Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS)

To

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Verkilampi Town Panchayat,
Kallankuli Village,
Kanyakumari District.

+1 CC to Mr.M.PUNITHA DEVAKUMAR, Advocate (SR-90175[F] dated 27/09/2019)

+1 CC to SPL GP (SR-90530[F] dated 30/09/2019)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-90509[F] dated 30/09/2019)

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NS

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