



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.15473 of 2019

and

W.M.P. (MD) No.12113 of 2019

P.Gurunathan

... Petitioner

-vs-

1.The District Collector
Tuticorin, Tuticorin District

2.The Tahsildar
Srivaigundam Taluk
Srivaigundam
Tuticorin District

3.The Block Development Officer
(East Panchayat)
Karungulam Panchayat Union
Karungulam
Tuticorin District

4.Balasubramanian

5.Meenatchiammal

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records relating to the impugned order of the third respondent in Thee3/347/18 dated 28.06.2019 received on 04.07.2019 and quash the same.

For Petitioner : Mr.V.M.Jegadeesha Pandian

For Respondents : Mr.A.Muthu Karuppan
Additional Government Pleader for R1, R2 & R4
Mr.J.Gunaseelan Muthiah
Additional Government Pleader for R3
Mr.K.Prabhu for R5



O R D E R

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

This writ petition has been filed before this Court on the ground that the petitioner has encroached into a common pathway. Action was initiated pursuant to a writ petition filed by the fifth respondent stating that the writ petitioner has unauthorizedly erected an arch in the pathway and put up his grandfather's name in the granite stone. This according to the fifth respondent is objectionable and has to be demolished. The revenue officials have conducted an inspection and found that no doubt, there is an encroachment, but wherever there is encroachment in the pathway, it is stated that it has to be removed. So far as the arch area is concerned, it is submitted that if the same is removed, it will affect the structure of the building.

2. According to the petitioner, the arch is in existence for several years. This has been denied by the fifth respondent. The grievance of the fifth respondent is that after constructing the arch, the petitioner has blocked the common pathway and not permitted the people to use the same. The photographs of the arch shows that the arch could have been constructed long back, but recently, repainted.

3. The submission of the fifth respondent appears to be true, because there are collapsible iron gates installed behind the pathway. If the pathway is common, the petitioner has no right to erect any collapsible iron gates and prevent the people to use the pathway. It is submitted that the collapsible iron gates have already been removed by the Authorities. Therefore, we issue the following directions:

- i. The arch in existence shall be permitted to continue.
- ii. The petitioner is directed not to block the access of any person using the common pathway and if this direction is violated, the Authorities shall initiate criminal action against the petitioner.

4. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar(CS)



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To:

1.The District Collector,
Tuticorin, Tuticorin District.

2.The Tahsildar,
Srivaigundam Taluk,
Srivaigundam,
Tuticorin District.

3.The Block Development Officer,
(East Panchayat),
Karungulam Panchayat Union,
Karungulam,
Tuticorin District.

+1 CC to M/s.V.M.JEGADEESHA PANDIAN, Advocate (SR-88150[F] dated 20/09/2019)

+1 CC to M/s.K.PRABHU, Advocate (SR-88195[F] dated 20/09/2019)

+1 CC to M/s.SPL GP (SR-88379[F] dated 20/09/2019)

KK/SAR/04.10.2019/3P-7C/

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