



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.09.2019**

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

WEB COPY

W.P. (MD).No.19142 of 2019

M.Mahalingam

... Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Thoothukudi District.

2.The Tahsildar,
Taluk Office,
Vilathikulam,
Thoothukudi District.

3.R.Ponnuthai

... Respondents

PRAYER: This petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 and 2 to remove the illegal encroachments made by the 3rd respondent by erecting the fence in Natham Poramboke land bearing Survey No.438/1 of Kambathupatti Village, Vilathikulam Taluk, Sivalarpatti Panchayat, Thoothukudi District and thus obstructing the public pathway of the Villagers' agricultural lands and consequently, to restore the public pathway in its original position and also take necessary action against the 3rd respondent for the illegal act and activities by encroaching the Government land and obstructing public pathway, based on the representations dated 14.06.2019 and 17.06.2019 within a reasonable time as may be fixed by this Court.

For Petitioner : Mr.C.Gangai Amaran

For R1 & R2 : Mr.A.K.Baskara Pandian
Special Government Pleader

O R D E R

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

Heard Mr.C.Gangai Amaran, learned counsel appearing for the petitioner and Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing on behalf of the first and the second



respondents.

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

3.The petitioner has filed this writ petition alleging that his neighbour/third respondent herein had erected a fence thereby encroaching into the Government Poramboke land. According to the petitioner, because of the fence erected by the third respondent, the ingress and egress of the villagers to agricultural land is obstructed. Prima facie, it appears to be a personal dispute between the petitioner and the third respondent, who admittedly is his neighbour. The petitioner has obtained an information under the Right To Information Act and reply has been received from the Information Officer dated 25.06.2019.

4.The learned counsel for the petitioner by referring to the said reply would submit that the land in Survey No.438/1 is a Government Poramboke land and the third respondent has absolutely has no right to put up any construction. All the above are disputed question of the facts, apart from the third respondent being a neighbour of the petitioner. Therefore, we cannot issue any positive direction to the authorities to take any action for removal of the fence etc.

5.Since the representation is pending, it is for the authorities to look into the representation, dated 14.06.2019 and 17.06.2019. Therefore, we permit the petitioner to pursue his representation to appear in person before the second respondent along with the copy of this order and the second respondent shall take action in accordance with law, before doing so, the second respondent should issue notice to the third respondent. We make it clear that we have not expressed any opinion on the merits of the case. The second respondent shall take expeditious action in the matter, not less than four weeks from the date of receipt of a copy of this order.

6.With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

Sub Assistant Registrar(CS)



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To

1.The District Collector,
Office of the District Collector,
Thoothukudi District.

2.The Tahsildar,
Taluk Office,
Vilathikulam,
Thoothukudi District.

+1 CC to M/s.B. KARUPPASAMY, Advocate (SR-85070[F] dated
04/09/2019)

+1 CC to M/s.SPL GP (SR-85329[F] dated 05/09/2019)

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