



WEB COPY

W.P(MD)No.19835 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **17.09.2019**

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P (MD)No.19835 of 2019

and

W.M.P. (MD)No.16339 of 2019

V.Perumalsamy

.. Petitioner

Vs.

1.The District Collector,
District Collector Office,
Theni, Theni District.

2.The Executive Officer,
Unjampatti Panchayat,
Unjampatti, Theni,
Theni District.

3.The Junior Engineer, (North),
TANGEDCO,
O/o.the Junior Engineer (North),
NRT Main Road,
Theni, Theni District.

4.Manojkumar

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the respondents 1 to 3 to take appropriate action against the fourth respondent for the illegal unauthorized construction with encroachment of 5 feet pathway at Unjampatti Village, Theni District as per the representation dated 22.07.2019.

For Petitioner : Mr.M.A.M.Raja

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

For R2 : Mr.K.MU.Muthu
Standing Counsel

ORDER

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

<https://hcservices.ecourts.gov.in/hcservices/> Heard Mr.M.A.M.Raja, learned counsel for the petitioner,



Mr.A.K.Baskara Pandian, learned Special Government Pleader for the first respondent and Mr.K.MU.Muthu, learned Standing Counsel for the second respondent. By consent of both parties, this writ petition is taken up for final disposal.

2. In the light of the order, we propose to pass in this writ petition, notice to the fourth respondent is dispensed with.

3. The petitioner is before this Court alleging that the fourth respondent has encroached a five feet common pathway and put up a dwelling house without obtaining planning permission from the second respondent Panchayat. In this regard, a representation has been sent to the second respondent Panchayat, dated 22.07.2019 and from the postal acknowledgment card, it is seen that the same has been received in the office of the second respondent on 23.07.2019. Thus the second respondent having come to know about the allegations made by the petitioner, should have immediately caused an inspection to the area and ascertained whether the construction put up by the fourth respondent is authorised and whether there is any encroachment in a public pathway.

4. Since we are disposing of this writ petition at the admission stage itself without notice to the fourth respondent, we do not propose to issue any positive direction at this juncture. Nevertheless, if any construction is put up by any person without obtaining necessary permission, then the second respondent Panchayat cannot be a silent spectator. If no action is taken, then the adverse inference can be drawn by concluding that the Executive Officer of the Panchayat is colluding with the offenders.

5. Since the representation is pending before the second respondent, we direct the second respondent to consider the representation of the petitioner, dated 22.07.2019, cause a surprise inspection of the area and after hearing the petitioner, initiate appropriate action in accordance with law after issuing notice to the fourth respondent. The above directions be complied with, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar (CS)



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To தமிழ்நாடு

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