



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 02.08.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
and
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.14360 of 2018

K.Kadarbatcha

: Petitioner

Vs.

1. The District Collector,
Karur District, Karur.
2. The Revenue Divisional Officer,
Karur Region, Karur.
3. The Thasildar,
Manmangalam,
Karur District.
4. Kandasamy
5. Prasanth
6. Santha
7. Kesavan
8. Prabaharan

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorari Mandamus calling for the records pertaining to the impugned order passed by the third respondent in his notice No.Na.Ka.A2/1060/2018, dated 14.06.2018 and quash the same and further direct the third respondent to pass appropriate orders to remove the obstruction made by the respondents 4 to 8 in the 26 links path way situated at Punchai Pugalur North Village, Manmangalam, Karur District in S.Nos.210/B5, 210/A6 and 211/12 to reach the S.No.212-A2 belonging to the petitioner.

For Petitioner : Mr.D.Selvaraj
For R-1 to R-3 : Mr.M.Karuppasamy
Government Advocate
For R-4 to R-8 : Mr.M.Saravanan

**ORDER**

[Order of the Court was made by **K.RAVICHANDRABAABU, J.**]

The petitioner is aggrieved against the order of the third respondent, dated 14.06.2018, wherein and whereby the petitioner was directed to seek remedy through the Civil Court with regard to his claim over a pathway, which according to the writ petitioner was encroached upon by the private respondents, without having any right. Consequently, the petitioner seeks for direction to the third respondent to remove the obstruction made by the respondents 4 to 8 at Survey Nos.210/B5, 210/A6 and 211/12 to reach his property situated at Survey No.212/A2.

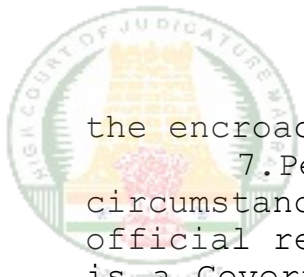
2.Heard the learned counsel appearing for the petitioner; the learned Government Advocate appearing for the respondents 1 to 3 and the learned counsel appearing for the private respondents 4 to 8.

3.It is seen that the petitioner claims exclusive right over a pathway situated at Survey Nos.210/B5, 210/A6 and 211/12 at Puchai Pugalur North Village, Manmangalam, Karur District. It is further seen that the petitioner claims that only through the said pathway, he has to reach his other patta land situated at Survey No.212/A2. According to the petitioner, the said pathway has been encroached upon by the private respondents by making some obstructions therein. Ventilating such grievance, the petitioner approached the Tahsildar, viz., the third respondent and filed a petition for removal of the so called encroachment. The third respondent/Tahsildar, after conducting an enquiry and finding that the petitioner has not produced any document to show that he has right over the said pathway exclusively, has directed the petitioner, through the impugned order, to approach the Civil Court and seek redressal of his grievance.

4.The learned counsel for the petitioner submitted that once the revenue records shows that it is a pathway, the revenue authorities are duty bound to protect the same from illegal encroachments and therefore, the third respondent is not justified in rejecting the petitioner's claim.

5.On the other hand, the counter filed by the third respondent clearly indicates that the subject matter pathway is a patta pathway and that there is a dispute between the pattadars as to the right over the pathway and therefore, the revenue authorities has no right to vacate even if there is any encroachment in the patta land.

6.The learned counsel for the petitioner relied upon a decision of the Division Bench of this Court, reported in **2018 (1) CWC 529 (J.JAGADESH v. TAHSILDAR, MODAKURICHI TALUK)**, to contend that the revenue authorities are duty bound to interfere and remove



the encroachments.

7. Perusal of the said decision and the facts and circumstances stated therein would show that the stand of the official respondents therein is that the pathway referred to therein is a Government land and the public has got every right to use the said Nilaviyal Vandi Pathai and nobody can prevent the public from using the said cart-track. Under the said circumstances, the Division Bench of this Court has passed the order reported in **2018 (1) CWC 529**. Therefore, we find that the present facts and circumstances will not fit into the above decision of the Division Bench, since it is the categorical assertion of the revenue officials herein that it is a private dispute between the petitioner and the respondents 4 to 8, in respect of the pathway lying in the patta land and therefore, it is for them to work out their remedy only before the competent Civil Court by filing appropriate Civil suit. The third respondent has rightly passed the impugned order by directing the petitioner to work out his remedy before the competent Civil Court. Therefore, we find that the above order does not require any interference.

8. Accordingly, this writ petition is dismissed without expressing any view on the merits of the claim made by the respective parties, however, by granting liberty for them to work out their remedy before the competent Civil Court by filing comprehensive and appropriate Civil Suit. No costs.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The District Collector,
Karur District, Karur.
2. The Revenue Divisional Officer,
Karur Region, Karur.
3. The Thasildar,
Manmangalam,
Karur District.

+1 CC to MR.S.SARVAGAN PRABHU, Advocate (SR-79522[F] dated 02/08/2019)

+1 CC to MR.R.SUBRAMANIAN, Advocate (SR-79635[F] dated 05/08/2019)

+1 CC to SPL GP (SR-79781[F] dated 05/08/2019)

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