



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P. (MD)No.23242 of 2018

M.Ramasamy

...Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Tahsildar,
Virudhunagar Taluk,
Virudhunagar District.

3.The Block Development Aofficer,
Virudhunagar Pacnhayat Union,
Virudhunagar District.

4.Thirumurugan

5.Gurusamy

..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 third respondent to forthwith remove the encroachments made by the respondents 4 and 5 on the public passage falling under survey No.243/11, Kadambankulam Village, Sennelkudi Post, Virudhunagar District and put the same to the public usage consequently direct the respondents 1 to 3 to ensure that there shall not any encroachment over the public passage in survey No.243/11, Kadampankulam Village, Sennelkudi Post, Virudhunagar District.

For Petitioner : Mr.S.Balamurugan

For R1 to R3 : Mr.A.K.Baskara Pandian
Special Government Pleader

For R4 : No Appearance

For R5 : Mr.R.Raja Mohan

ORDER

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

Heard Mr.S.Balamurugan, learned counsel for the petitioner, Mr.A.K.Baskara Pandian, learned Special Government Pleader for the respondents 1 to 3 and Mr.R.Raja Mohan, learned counsel for the fifth respondent.



2. This writ petition has been filed seeking direction upon the third respondent to remove the encroachments made by the fourth and fifth respondents in Survey No.243/11, Kadambankulam Village, Sennelkudi Post, Virudhunagar District.

3. The second respondent has filed counter affidavit, in which it has been held as follows:-

"..6.With regard to the averments made in para 4 of the affidavit, it is submitted that the petitioner made representations to the respondents 1 and 2 for evicting the encroachments made by the respondents 4 and 5. The second respondent called for a report from the Village Administrative Officer, Firka Revenue Inspector, Firka Surveyor and Zonal Deputy Tahsildar. Based on the report submitted by the Subordinate Officers, the second respondent in his Rc.No.A5/3662/2018 dated 11.07.2018 directed the third respondent to evict the encroachment made by the respondents 4 and 5 in S.No.243/11 Pathai Poramboke, following the procedure laid down under the relevant Act.

7. With regard to the averments made in para 5 to 8 of the affidavit, it is submitted that occupied Natham is entrusted to the Panchayat for the maintenance of Road, Electricity, Water facility, Drainage facility and other Basic amenities of the Public. Since Pathai Poramboke has been entrusted to Panchayat for its maintenance, the third respondent is the authority competent to evict the encroachment made by the 4 and 5 respondents.

8. With regard to the averments made in para 9 of the affidavit, it is submitted based on the report submitted by the Subordinate Officers, the second respondent in his Rc.No.A5/3662/2018, dated 11.07.2018 directed the third respondent to evict the encroachment made by the respondents 4 and 5 in S.No.243/11 Pathai Poramboke, following the procedure laid down under the relevant Act. It is submitted that the third respondent is the authority competent to evict the encroachment made by the 4 and 5 respondents."

4. In the light of the stand taken by the authorities, we dispose of this writ petition by directing the competent authorities to follow the procedure under the relevant law and take action as expeditiously as possible. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)



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To

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Tahsildar,
Virudhunagar Taluk,
Virudhunagar District.

3.The Block Development Aofficer,
Virudhunagar Pacnhayat Union,
Virudhunagar District.

+1 CC to Mr.S.BALAMURUGAN, Advocate (SR-92120[F] dated 16/10/2019)

+1 CC to Mr.R.RAJAMOHAN, Advocate (SR-92244[F] dated 16/10/2019)

ORDER MADE IN
W.P. (MD) No.23242 of 2018
15.10.2019

VB(14.11.2019) 3P 6C