

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.11.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND
THE HONOURABLE MRS. JUSTICE R. HEMALATHA

WP.No.11117 of 2020
and W.M.P.No.13906 of 2020

P.Selvam

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Petitioner

Versus

- 1.The District Collector
and Inspector of Panchayats,
Salem District, Salem.
- 2.The Sub-Collector / Revenue Divisional Officer,
Mettur Revenue Division,
Mettur Dam, Salem District.
- 3.The Tahsildar,
Mettur Taluk, Mettur Dam,
Salem District.
- 4.The Block Development Officer,
Village Panchayat,
Mecheri Panchayat Union,
Mecheri 636 453,
Mettur Taluk, Salem District.

5.Maniraja

6.Suresh

7.Mani

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Respondents

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus directing the Respondents 2 to 4 to remove the encroachments and obstructions made by the Respondents 5 to 7 in the public road viz. Kombaikadu Village to Kuppakalipatti-Pattanneru Road situated at Mallikuntham Village, Mettur Taluk, Salem District and to restore the said road to its

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original position by considering Petitioner's representation dated 12.06.2020 forthwith.

For Petitioner : Mr.M.R.Jothimanian

For Respondents: Mr.M.Elumalai
Additional Government Pleader for
R1 to R4

Mr.C.Prabakaran for R5 and R6

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

The petitioner is a resident of Mallikundam Village and Post, Mettur Taluk, Salem District and the learned counsel appearing for the petitioner, on instructions, would submit that the petitioner did not cause encroachment either upon public land or on the lands belonging to Local Body or Waterway and the said submission, on instructions, is placed on record.

2. The learned counsel appearing for the petitioner would submit that the petitioner is an agriculturalist and pursuant to the Gift Deed dated 03.03.1999, various extent of lands in various survey numbers have been given and in S.F.Nos.554/2 and 554/3, a mud road has been formed and it is used by general public and however, the private respondents had raised objections and in this regard, a detailed representation dated 12.06.2020 has been submitted to the concerned official respondents and despite receipt and acknowledgment, no steps have been taken to remove the encroachment / clear the obstructions and therefore, he is constrained to approach this Court by filing this Writ Petition.

3. Counter affidavit filed on behalf of the respondents 5 to 7 has denied the averments made by the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents 5 to 7 would submit that the petitioner has approached this Court with oblique and malafide motive and it cannot be termed as a Public Interest Litigation and it is nothing but an abuse of process of law and prays for dismissal of the same with exemplary costs.

4. This Court has considered the rival submissions and also perused the materials placed before it.

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5. Though the petitioner prays for larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, either in the representation or in this Writ Petition directs the respondents 3 and 4 to cause joint inspection of the land in S.F.Nos.554/2 and 554/3 of Mallikundam Village and Post, Mettur Taluk, Salem District, with the aid of relevant revenue records and in the event of being noted that it is a public pathway and if any obstruction is caused, the respondents 3 and 4 are directed to put the concerned persons on notice, which may include the respondents 5 to 7 and thereafter proceed further in accordance with law and take appropriate action by also adhering to the principles of natural justice and complete the said exercise within a period of eight weeks from the date of receipt of a copy of this order. If the respondents 3 and 4 requires police aid, the jurisdictional Police Station namely, The Station House Officer / Inspector of Police, Mecheri Police Station, Mettur Taluk, Salem District, is also directed to provide necessary police aid and the decision, taken in this regard shall also communicate to the petitioner, private respondents and any other persons, if any concerned.

6. The Writ Petition stands disposed of, accordingly. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Collector
and Inspector of Panchayats,
Salem District, Salem.
- 2.The Sub-Collector / Revenue Divisional Officer,
Mettur Revenue Division,
Mettur Dam, Salem District.
- 3.The Tahsildar,
Mettur Taluk, Mettur Dam,
Salem District.

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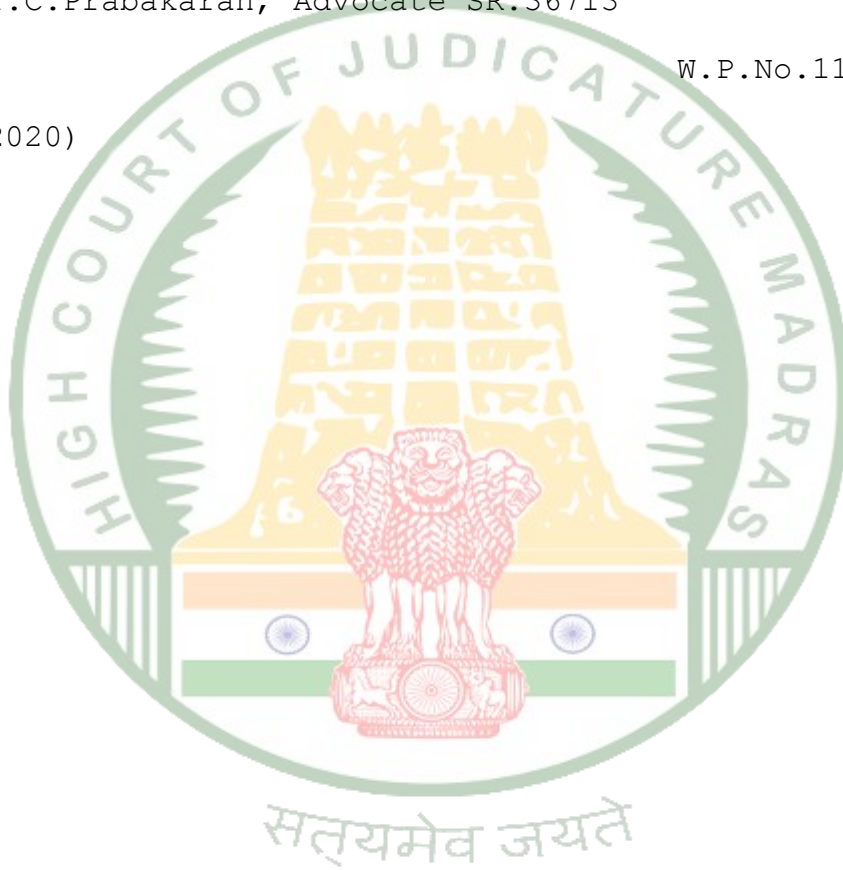
4.The Block Development Officer,
Village Panchayat,
Mecheri Panchayat Union,
Mecheri 636 453,
Mettur Taluk, Salem District.

Copy to:
The Station House Officer
/ Inspector of Police,
Mecheri Police Station,
Mettur Taluk, Salem District.

+lcc to Mr.C.Prabakaran, Advocate SR.36713

W.P.No.11117 of 2020

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