



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD)No.7977 of 2020

WEB COPY

P.Murugesan

... Writ Petitioner

Vs.

1.The District Collector,
Collectorate, Madurai.

2.The Assistant Director of Town Panchayat,
Madurai Zone, Madurai.

3. The Tahsildar,
Tahsildar Office, Melur Taluk,
Madurai.

4. The Executive Officer,
A.Vallalapatti Town Panchayat,
Madurai District.

5. Backiyam

6. Elangovan

7. Rajendran

8. Sivakumar

9. Thangarasu

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 4 more particularly the fourth respondent to remove the encroachment made by the 5 to 9 respondents herein in Salai Poramboke consist of 20ft. width in S.No.943/2 in Chettiyarpatti, A.Vallalapatti village, Melur Taluk, Madurai District, within a time stipulated by this Court and further restore the cement road by considering by representation dated 27.02.2020.

For Petitioner

: Mr. D.Nallathambi

For Respondents

: Mr. R.Murugan,

Additional Government Pleader
for R1 to R3

Mrs.J.Padmavathi Devi

Special Government Pleader for R4

**ORDER**

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

The petitioner came forward to file this Writ Petition, styled as Public Interest Litigation stating that he is a permanent resident of Chettiyarpatti, A.Vallalapatti Village and he is owning a house in Survey No.943/4 admeasuring 892 ½ sq.ft. and residing there for over three decades. The petitioner would further state that on the northern side of the property, there exists East-West Road in Survey No.943/2 to an extent of 20 feet width, which, according to the petitioner, is a public road and in the revenue records, it has been classified as "Salai Poramboke".

2. The learned counsel appearing for the petitioner would submit that in the year 2009 onwards, the private respondents, more particularly, respondents 5 and 6 started encroachment and in this regard, the petitioner had submitted a representation dated 27.01.2009 and based on the said representation, the jurisdictional Village Administration Officer measured the field and submitted a report to the respondents 2 and 4. The fourth respondent, acting on the same, sent a notice dated 01.09.2009 to the respondents 5 to 9, by calling upon them to remove the encroachment made by them in S.No.943/2 to an extent of 3 mtrs. within 7 days from the date of receipt of the notice and the sixth respondent made a challenge to the initiation of proceedings by filing O.S.No.272 of 2009, on the file of the District Munsif Court, Melur, against the Collector of Madurai District; the Tahsildar, Melur Taluk; the President of A.Vallalapatti, as well as against this writ petitioner praying for an order of Permanent Injunction restraining the defendants, their men and agents in any way from demolishing or disturbing the peaceful possession of M.Elangovan, sixth respondent herein and the said suit came to be dismissed for default on 06.09.2016.

3. The learned counsel appearing for the petitioner would submit that thereafter, no worthwhile action has been taken in this regard and he has also submitted a detailed representation dated 01.02.2020, followed by yet another reminder representation dated 27.02.2020, to the respondents 1 to 4, praying for immediate, appropriate and necessary action for the removal of encroachment caused by the private respondents and since, no action whatsoever has been taken, he is constrained to approach this Court by filing this Writ Petition.

4. Mr.V.Meenakshisundaram, learned counsel appearing for the petitioner would submit that on 23.02.2020, the fourth respondent sent a notice to the private respondents to stop the work which would cause obstruction on the said public road and it is also followed by a notice sent by the third respondent during April 2020, for surveying and measuring the said survey number and thereafter, citing COVID-19 pandemic situation, nothing is moving forward and therefore, prays for appropriate orders.



5. Mr.R.Murugan, learned Additional Government Pleader, accepts notice on behalf of the respondents 1 to 3.

6. Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances, without going into the merits of the claim projected by the petitioner either in his representation dated 27.02.2020 or in this writ petition, directs the respondents 3 and 4 to put the private respondents on notice and thereafter, consider the representation of the petitioner dated 27.02.2020, on merits and in accordance with law and also adhering the principle of natural justice and pass appropriate orders as expeditiously as possible, not later than eight weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner as well as to the private respondents.

7. The writ petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned

To

1.The District Collector,
Collectorate, Madurai.

2.The Assistant Director of Town Panchayat,
Madurai Zone, Madurai.

3. The Tahsildar,
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Madurai.

4. The Executive Officer,
A.Vallalapatti Town Panchayat,
Madurai District.

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-13230[F] dated 24/07/2020)

W.P. (MD)No.7977 of 2020

24.07.2020