



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.07.2020

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**THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN**  
**and**  
**THE HON'BLE MR.JUSTICE P.RAJAMANICKAM**

W.P.(MD)No.8084 of 2020  
(Through Video conferencing)

Selvaraj ... Petitioner  
-Vs-

- 1.The District Collector  
Virudhunagar District  
Virudhunagar.
- 2.The Revenue Divisional Officer  
Aruppukottai  
Virudhunagar District.
- 3.The Tahsildar  
Virudhunagar Taluk  
Virudhunagar District.
- 4.The Village Administrative Officer  
Pavali Village  
Virudhunagar Taluk & District.

5.Mrs.Kasthuri ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the third respondent herein to take necessary steps to remove the encroachment in Survey No.285/5, Pavali Village, Virudhunagar Taluk and District within the stipulated period which this Hon'ble Court may deem fit and proper and thus render justice.

For Petitioner : Mr.M.Jothibasu  
For Respondents : Mr.R.Murugan  
Addl. Govt. Pleader for R1 to R4

**ORDER**

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

By consent, this writ petition is taken up for final disposal.  
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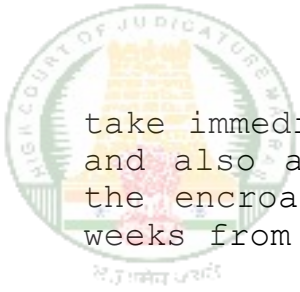
2. The petitioner claims to be the owner of the property situate in Door No.2/157-1, Survey No.77/4, Natham Ward No.2, Pavali Village, Virudhunagar Taluk and District. According to the petitioner, his grandfather viz., K.Shanmugam, S/o.Kandasamy, was given the assignment of a house site, admeasuring to an extent of 0.045 square meter in Natham Survey No.286/51 at Pavali Village. The petitioner would further aver that his grandfather viz., K.Shanmugam, was also purchased a landed property admeasuring to an extent of 558 square meter in Survey No.77/4 at Pavali Villlage, through a registered sale deed dated 22.04.1999, bearing Document No.1208/1999, registered on the file of the Sub Registrar No.II, Virudhunagar.

3. The petitioner, who is the grandson of Mr.K.Shanmugam, had executed a registered settlement deed dated 20.10.2011, in favour of his wife viz., Mrs.S.Parameswari (Document No.9396/2011) registered on the file of Sub-Registrar, Virudhunagar, in respect of half share in Survey No.77/4. The learned counsel appearing for the petitioner would submit that the fifth respondent had encroached upon the public pathway by putting up a septic tank and thereby impede the access of the residents of the said locality and in this regard, the petitioner as well as the residents of the Pavali Village submitted a representation dated 04.06.2020 to the first respondent and despite receipt and acknowledgment, no action has been taken, and therefore, the petitioner is constrained to approach this Court by filing this writ petition.

4. This Court, on going through the materials, finds that there is a discrepancy in respect of the schedule properties pertaining to the registered sale deed, dated 22.04.1999, executed in favour of the petitioner's grandfather viz., K.Shanmugam and registered settlement deed dated 20.10.2011, executed by the petitioner in favour of his wife and it, *prima facie*, appears that the settlement deed is in respect of a large extent of land, whereas what was actually conveyed to the grandfather of the petitioner under the above cited sale deed dated 22.04.1999.

5. Be that as it may, the grievance expressed by the petitioner is that fifth respondent without any authorisation or permission, has put up a septic tank by encroaching upon the public road and therefore, it should be removed immediately.

6. This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in his representation or in this writ petition, directs the third respondent to cause inspection and survey of the pathway in Survey No.286/5, after putting on notice the persons concerned and the result of the same would disclose any encroachment on public land or pathway, the third respondent shall



take immediate and proper action by following the due process of law and also adhering to the principles of natural justice and remove the encroachment as expeditiously as possible, not later than ten weeks from the date of receipt of a copy of this order.

7. In the light of the discrepancy pointed out by this Court, as to the prior title deed vis-a-vis the settlement deed, the third respondent shall also cause inspection and if it is noted that the petitioner himself is guilty of any encroachment upon the public pathway, necessary action shall be taken in accordance with law in a time bound manner.

8. This writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

**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,  
Virudhunagar District, Virudhunagar.
- 2.The Revenue Divisional Officer  
Aruppukottai, Virudhunagar District.
- 3.The Tahsildar,  
Virudhunagar Taluk, Virudhunagar District.
- 4.The Village Administrative Officer  
Pavali Village, Virudhunagar Taluk & District.

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**27.07.2020**

vsm

SDS (12.08.2020) 3P-5C

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