



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2020

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD) No. 9187 of 2020

and

W.M.P. (MD) No. 8393 of 2020

(Through Video conferencing)

C.Nithiyanantham

...Petitioner

-Vs-

1.The District Collector
Dindigul District
Dindigul.

2.The Divisional Engineer (D-3)
Highways Department
Dindigul District.

3.The Assistant Engineer (D-1)
Highways Department
Athoor Sub Division
Dindigul District.

4.The Thasildar
Aathur Taluk
Dindigul District.

5.Bose

6.Mokkaiyan

7.Chinnathambi

8.Chinnathevar

9.Othachayee

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Mandamus, directing the respondents 1 to 4 to take appropriate action for the removal of encroachment in Highway land in S.No.359 at Bodikamanvadi Village, Aathur Taluk, Dindigul District and also to take appropriate action against the 5th to 9th respondents upon my representation dated 12.03.2020.



For Petitioner : Mr.C.Prithviraj
For Respondents : Mr.M.Muthugeethaiyan,
Spl. Govt. Pleader for R1 to R4

ORDER

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

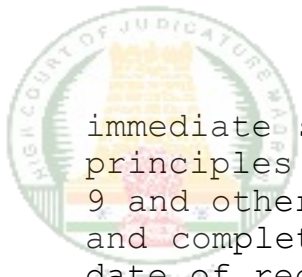
The petitioner claims to be a resident of Chokalingapuram West Street, Bodikamanvadi Village, Cittayankottai Post, Aathur Taluk, Dindigul District and he came forward to file this writ petition styled as a Public Interest Litigation by submitting that to the land in Survey No.387 of the said village, the people are having access from the Highway in Survey No.359 and many of the farmers/agriculturists also having a right of access to the said pathway. It is the specific case of the petitioner that the private respondents 5 to 9 had encroached upon a portion of the land in Survey No.359 and in this regard, a representation dated 12.03.2020 was also submitted to the concerned officials for removal of encroachment and the fourth respondent has also sent a report as to the said encroachment and despite passage of time, no action has been taken to remove the encroachment and therefore, the petitioner is constrained to approach this Court.

2. The learned counsel appearing for the petitioner would submit that the fifth respondent on an earlier occasion filed a civil suit in O.S.No.8 of 2020 on the file of District Munsif, Athoor against the third respondent, petitioner and the second respondent praying for decree of permanent injunction from interfering with the peaceful possession and enjoyment of the land in Survey No.359, at Bodimakanvadi Village, Aathur Taluk, Dindigul District, admeasuring to an extent of 60 sq. mt. In the said suit, the third respondent herein, who is arrayed as first defendant, has filed written statement dated 03.03.2020, admitting the encroachment on the part of six persons and in the light of the same, immediate and necessary steps have to be taken by the concerned Official respondents for removal of encroachment and hence, prays for appropriate orders.

3. Mr.M.Muthugeethaiyan, learned Special Government Pleader accepts notice on behalf of respondents 1 to 4.

4. This Court has carefully considered the rival submissions and also perused the materials placed on record.

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 his representation or in this writ petition, directs the respondents 2 to 4, in the light of the above stand taken, to take necessary and



immediate steps in accordance with law and also by adhering to the principles of nature justice and after putting the respondents 5 to 9 and other encroachers, if any, on notice, shall take further steps and complete the said exercise within a period of 10 weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner, respondents 5 to 9 and other persons concerned, if any.

Writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsm

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
Dindigul District
Dindigul.
- 2.The Divisional Engineer (D-3)
Highways Department
Dindigul District.
- 3.The Assistant Engineer (D-1)
Highways Department
Athoor Sub Division
Dindigul District.
- 4.The Thasildar
Aathur Taluk
Dindigul District.

+1 CC to SP1.GP (SR-14178[F] dated 17/08/2020)

Order made in
W.P. (MD) No.9187 of 2020
and W.M.P. (MD) No.8393 of 2020
14.08.2020