



WEB COPY

W.P.(MD)No.11728 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2020

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD)No.11728 of 2020

(Through Video conferencing)

A.Suresh

...Petitioner

-Vs-

1.The Revenue Divisional Officer &
Divisional Executive Magistrate
Majeeth Road
Sivaganga.

2.The Tahsildar
Sub Divisional Executive Magistrate
Sivaganga Taluk Office
Sivaganga.

3.Pandiyammal

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Mandamus, directing the respondents herein to remove the encroachment, nuisance put up in the pathway situated in S.No.213/22, Kumarapatti Village, Sivaganga Taluk and Sivaganga District based on the petitioners representation dated 30.07.2020.

For Petitioner : Mr.V.S.Kumaraguru

For Respondents : Mr.B.Bagavathi,

Government Advocate for R1 & R2.

ORDER

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

The learned counsel appearing for the petitioner, on instructions, would submit that the petitioner is not an encroacher upon any public land or the land belonging to the local body and according him, he is a resident of Kumarapatti Village, Sivaganga Taluk, Sivaganga District. It is the specific case of the petitioner that in order to access the road, there exists a natham public pathway in Survey No.213/22 in the said Village and the third respondent had encroached upon the same and started putting up a wash room and when it was questioned, the third respondent and her brother threatened the petitioner with dire consequences.



2. The petitioner, in this regard, has also submitted a representation dated 15.07.2020 to the Collector of Sivaganagi District followed by a petition dated 30.07.2020 to the first respondent and despite receipt and acknowledgement, no response is forthcoming and therefore, came forward to file this writ petition.

3. Mr.B.Bagavathi, learned Government Advocate accepts notice on behalf of respondents 1 and 2 and he would submit that the land in Survey No.213/22 at Kumarapatti Village, Sivagangai Taluk is classified as Government Poramboke with the specific classification of "pathway" and after causing survey and inspection, it is confirmed as Government Poramboke pathway and thereafter, steps are being taken to remove the encroachment and also submitted the report of the Village Administrative Officer, 41-Kumarapatti Group and 42-Mudikandam Group, Sivagangai Taluk, Sivagangai District.

4. The report of the Village Administrative Officer, 41-Kumarapatti Group and 42-Mudikandam Group, Sivagangai Taluk, Sivagangai District is taken on file and recorded.

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

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 representations or in this writ petition, directs the second respondent to follow the due process of law and also adhere to the principles of natural justice and cause removal of encroachment said to have been caused by the third respondent or by any other persons concerned and complete the said exercise within a period of six (6) weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner, third respondent and any other persons concerned.

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

Sd/-

Assistant Registrar (Crl.Side)

// 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

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1.The Revenue Divisional Officer &
Divisional Executive Magistrate
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+1 CC to M/s.GP (SR-17871[F] dated 23/09/2020)

+1 CC to M/s.V.S. KUMARAGURU, Advocate (SR-17903[F] dated 24/09/2020)

Order made in
W.P. (MD) No.11728 of 2020
22.09.2020

SS (CO)

AP (30/09/2020) 3P 5C