

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.02.2021

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

WP.No.3003 of 2021

M.Kumar

.. Petitioner

Versus

1. The District Collector,
Collectorat Dharmapuri,
Dharmapuri District 636 705.
2. The District Revenue Officer,
Dharmapuri District.
3. The Tahsildar,
Harur Division,
Dharmapuri District.
4. Mr.Radhakrishnan
5. Mr.Balakrishnan

... Respondents

Prayer:-

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the 3rd respondent to remove all encroachments on public passage and government poramboke Tharisu land in S.F.No.86/2, 86/3, 86/4, 85/1, 85/4 at Aalankuttai Village, Harur Taluk, Dharmapuri District on the basis of the order of the 1st respondent dated 02.09.2020 based on petitioner's representation dated 14.08.2020 within a time limit stipulated by this Court and to prosecute the offenders as per law.

For Petitioner : Mr.J.Ravikumar

For RR 1 to 3 : Mr.R.Vijayakumar
Additional Government Pleader

ORDER

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

The learned counsel appearing for the petitioner, on instructions would submit that the petitioner did not encroach upon any public land / waterway / waterbody and the said submission, on instructions, is placed on record. The petitioner along with other residents of Aalankuttai Village, Harur Taluk, Dharmapuri District, has submitted a representation dated 14.08.2020, to the 3rd respondent, stating among other things that they are agriculturalist and in order to reach their agricultural land, they are using the common pathway in S.F.No.86/2, 86/3, 86/4, 85/1, 85/4 at Alankuttai Village, and the respondents 4 and 5 had illegally entered upon the alleged common pathway and thereby obstructing the road users.

2. The learned counsel appearing for the petitioner would submit that on account of the encroachment caused by the private respondents, the petitioner and other residents, who are agriculturalists are unable to have proper access to their agricultural land and along with the above cited representation submitted to the 3rd respondent, they have also enclosed FMB Sketch, 'A' Register as well as earlier representations submitted to the 1st respondent, Hon'ble Chief Minister (Grievance Cell) as well as Sub Collector of Harur District and acting upon the said representation, the office of the 1st respondent vide Memo dated 02.09.2020 in Na.Ka.No12569/2020/tha3, has directed the 3rd respondent to cause survey and inspection, by following the Rules and if the result of the inspection reveals any encroachment, directed the said official to take appropriate action in accordance with law. Despite a lapse of nearly four months and odd, no action whatsoever has been taken and embolden by the same, the respondents 4 and 5 are further encroached upon the said public pathway and hence prays for appropriate orders.

3. Mr.R.Vijayakumar, learned Additional Government Pleader who appears for respondents 1 to 3 would submit that the above cited Memo of the 1st respondent dated 02.09.2020, addressed to the 3rd respondent would be adhered to and appropriate action would be taken in accordance with law at the earliest.

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

5. Though the petitioner prays for a 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 3rd respondent to act on the above cited Memorandum of the 1st respondent dated 02.09.2020 and cause survey and inspection of the land in S.F.Nos.86/2, 86/3, 86/4, 85/1 and 85/4 of Aalankuttai Village, Harur Taluk, Dharmapuri District, with the aid of revenue records and if the result of the survey and inspection reveals any encroachment, the said official is directed to take immediate, necessary and appropriate action in accordance with law and by also adhering to the principles of natural justice and complete the said exercise within a period of twelve weeks from the date of receipt of a copy of this order / uploading of the order in the Website and communicate the decision taken to the petitioner, respondents and any other persons concerned and encroachers.

6. The Writ Petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Collectorat Dharmapuri,
Dharmapuri District 636 705.
2. The District Revenue Officer,
Dharmapuri District.
3. The Tahsildar,
Harur Division,
Dharmapuri District.

+1cc to Mr.J.Ravikumar, Advocate, S.R.No.8924
+1cc to the Government Pleader, S.R.No.8481

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KK(CO)
CS/18/03/2021