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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 22.11.2021

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.NO.11210 OF 2021

Thirupathi Gounder

... Petitioner

-Vs-

1. The District Collector,
Krishnagiri District,
Krishnagiri.
2. The Tahsildar,
Taluk Office,
Krishnagiri.
3. Manickam
4. The Commissioner,
Krishnagiri Municipality,
Krishnagiri District.

... Respondents

(R4 impleaded vide order dated 01.10.2021
made in W.M.P.No.21988 of 2021)

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st and 2nd respondents herein to remove the encroachments made by the 3rd respondent herein in the public passage situated at S.F.No.901/3, Boganapalli Village, Krishnagiri Taluk and District within a stipulated time.

For petitioner : Mr.K.Govi Ganesan

For respondents : Mr.V.P.R.Ilamparithi
Additional Government Pleader
For R1, 2 and 4

Mr.R.Ramesh for R3



ORDER

(Order of the Court was made by K.KALYANASUNDARAM, J.,)

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We have heard Mr.K.Govi Ganesan, learned counsel appearing for the petitioner; Mr.V.P.R.Ilamparithi, learned Additional Government Pleader appearing for the respondents 1, 2 and 4 and Mr.R.Ramesh, learned counsel appearing for the 3rd respondent.

2. The petitioner has come up with this writ petition for issuance of writ of mandamus directing the respondents 1 and 2 to remove the encroachment made by the 3rd respondent in public pathway situated at S.F.No.901/3, Boganapalli Village, Krishnagiri Taluk, within a stipulated time.

3. The petitioner would state that he purchased 0.55 cents of land in S.F.No.901/3 of Boganapalli Village. Thereafter, he plotted out the lands and sold to various persons. The 3rd respondent has purchased the plot No.9, having measurement of 576 sq.ft with specific boundaries.

4. The grievance of the petitioner is that the 3rd respondent has encroached upon the public path way, to an extent of 44 ft x 5 to 7 ft and he presently runs a Tea stall in the name and style of "Altaj Tea Stall & Cooldrinks".

5. The learned counsel appearing for the 3rd respondent would state that though the petitioner alleges the encroachment in the public pathway to an extent of 350 sq.ft., however, the 2nd respondent filed his counter stating that the encroachment was made only to an extent of 36 sq.ft.,.

6. In reply, the learned counsel for the petitioner would state that the measurement mentioned in the counter, filed by the 2nd respondent is incorrect and measurement was not taken in the presence of the parties.

7. The learned counsel for the petitioner and the 3rd respondent have no objection for conducting re-survey.

8. In the light of the above, we hereby direct the 2nd respondent to conduct re-survey, in the presence of the petitioner and the 3rd respondent, in the land in dispute and submit a report to the Commissioner, Krishnagiri Municipality, and based upon the report, the Tahsildar/2nd respondent herein shall remove the encroachment, if any, in accordance with law, within a period of six months from the date of receipt of a copy of this order.



9. Accordingly, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Krishnagiri District,
Krishnagiri.
2. The Tahsildar,
Taluk Office,
Krishnagiri.
3. The Commissioner,
Krishnagiri Municipality,
Krishnagiri District.

+1cc to Mr.K.Govi Ganesan, Advocate, S.R.No.60202
+1cc to Mr.R.Ramesh, Advocate, S.R.No.60372
+1cc to the Government Pleader, S.R.No.60642

W.P.NO.11210 OF 2021

KSM(CO)
PBS/25/11/2021