

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE T.V.THAMILSELVI

W.P.No.8664 of 2021

K.Chitrakala, F/52 years,
W/o.K.Kathirvel,
No.53, A Ulaghapuram,
Gnanpalayam Post,
Vellodu Via,
Erode District 638 112

...Petitioner

Vs

1.The District Collector,
Erode,
Erode District.

2.The Revenue Divisional Officer,
Erode,
Erode District.

3.The Thasildhar,
Perundurai Taluk Office,
Erode.

4.The Deputy Thasildhar,
Perundurai Taluk Office,
Erode.

5.Mariappan,
S/o.Chengadurai.

6.M.Rajeswari,
W/o.Mariappan,
5th & 6th Respondents are residing at
Door No.70, Mariamman Kovil Street,
Chennimalai Town Panchayath,
Perundurai Taluk,
Erode District 638 051.

...Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 to 4 herein to remove the encroachment made by the respondents 5 & 6 in Survey No.623 pathway i.e., Mariamman Kovil (Veppamaram Lane) based on petitioner's representation dated 19.03.2021 within time frame fixed by this Court.

For Petitioner : Mr.M.Selvam

For Respondent : Mr.M.Elumalai (for R1 to R4)
Additional Government Pleader

ORDER

(Order of the Court was passed by N.KIRUBAKARAN, J)

This Writ Petition has been filed by the Petitioner seeking direction to respondents 1 to 4 to remove the encroachment made by respondents 5 and 6 in Survey No.623 pathway i.e., Mariamman Kovil (Veppamaram Lane) based on petitioner's representation dated 19.03.2021.

2.The petitioner would contend that he is the owner of the property comprised in old Survey No.185/14, new Survey No.443/2, Mariamman Kovil Street, Chennimalai Town, Perundurai Taluk, Erode District. The petitioner's husband purchased a piece of land from the 5th respondent by way of registered sale deed dated 11.07.2016. Adjacent to the said property, there is a pathway which is used by the neighbours for their ingress and egress to their property. Thereafter, 5th and 6th respondents suppressing the fact that subject land is the pathway, got patta in their name and encroached upon the land and constructed house in the pathway and they are not allowing the petitioner to have access to his property which is located adjacent to the properties of 5th and 6th respondents. In this regard, the Petitioner has given a representation on 19.03.2021 to the respondents 1 to 4 to remove the encroachment made in the pathway. Since no order has been passed, the petitioner has come before this Court.

3.Heard Mr.M.Selvam, learned counsel appearing on behalf of the petitioner and Mr.M.Elumalai, learned Additional Government Pleader appearing on behalf of R1 to R4. Since the order to be passed by this Court, is not going to prejudice the 5th and 6th respondent, in any way, no notice is necessary to respondents 5 and 6 at this juncture.

4.The petitioner made the representation that respondents 5 and 6 have got the patta, suppressing the fact that it is a pathway. Since the patta is granted in favour of 5th and 6th respondents, the Tahsildar/3rd respondent is directed to consider

the representation of the petitioner dated 09.11.2020, for cancellation of patta issued in favour of 5th and 6th respondents, after giving an opportunity to the petitioner as well as 5th and 6th respondents and pass appropriate orders, as per law within a period of 12 weeks from the date of receipt of a copy of this order.

5.With the above direction, this Writ Petition is disposed of. No costs.

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

sai

To

1.The District Collector,
Erode,
Erode District.

2.The Revenue Divisional Officer,
Erode,
Erode District.

3.The Thasildhar,
Perundurai Taluk Office,
Erode.

4.The Deputy Thasildhar,
Perundurai Taluk Office,
Erode.

+1 CC to Mr.M.Selvam, Advocate sr 22847

+1 Cc to The Government Pleader sr 23387.

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AK(CO)
SP(22/04/2021)