



IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated: 27.09.2021

CORAM:

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.26997 of 2016
and
W.M.P.No.23196 of 2016

V.P.Kandhasamy
S/o.Palaniappa Gounder

.. Petitioner

Vs

1.The District Collector,
Erode District,
Erode.

2.The Block Development Officer,
Modakkurichi Panchayat Union,
Modakkurichi,
Erode Taluk and District.

3.The Tahsildar,
Erode Taluk,
Erode.

4.D.Selvakumar
S/o.Duraisamy

.. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for records of the first respondent culminated in and by his proceedings in impugned order in No.Na.Ka.7590/2016/u1 dated 05.04.2016, quash the same and consequently, direct the respondents 1 to 3 to form the proposed thar road through SF No.226 of Enjampalli 'A' village, Modakkurichi Taluk, Erode District.

For Petitioner : Mr.V.S.Kesavan

For Respondents: Mr.K.M.D.Muhilan,
Government Advocate [R1 and R3]

Mr.M.Dig Vijaya Pandian [R2]

O R D E R

The proceedings dated 05.04.2016, issued by the 1st respondent, is under challenge in the present writ petition.



2. The 1st respondent states that after removal of encroachment in S.No.225, road will be provided to reach the burial ground in survey No.225.

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3. The grievances of the petitioner is that even as per the report of the Tahsildar, which is recorded in the impugned order the encroachments in S.Nos.225 & 235 were already removed. However, the respondents have not removed the encroachment in respect of S.No.226 in that particular locality. It is further stated that the 4th respondent is in the encroachment of the portion of the land in S.No.226 and due to some compulsion, no action has been taken against the 4th respondent.

4. In respect of the said allegations, this Court directed the learned Government Counsel for the respondents 1 and 3 to submit a report and ascertain the facts regarding the allegations.

5. On behalf of the respondents 1 and 3, the photographs as well as the letter communicated to the Government Pleader dated 27.09.2021 are placed before this Court. Relying on the said communication and the photographs, the learned Government counsel for the respondents 1 and 3, reiterated that the encroachments in S.Nos.225 and 235 were already been removed and a road has already been provided to reach the burial ground.

6. As far as the disputed encroachment in S.No.226 is concerned, the learned Government pleader for the respondents 1 and 3 now produced the photographs stating that all such encroachments were removed and a portion of Government land in S.No.226 is used as 'Odai' for free flow of water during flooded seasons. Though the land in S.No.226, is classified as 'Nadaipathai', in this regard, if the 'Nadaipathai' became 'Odai' due to the free flow of water, necessary steps are to be taken by the appropriate revenue authorities to reclassify the portion of the government land in an appropriate manner. Once it is not utilised as a public road and now being used as 'Odai', then it is to be reclassified, appropriately. However, the learned Government counsel for the respondents 1 and 3 reiterated that there is absolutely no encroachment in respect of government land in S.No.226.

7. This being the fact asserted by the learned Government counsel for the the respondent 1 and 3, on getting instructions from Mr.K.Saravana Murthy, Zonal Deputy Tahsildar, Madakurichi, Erode, this Court is of the considered opinion that the grievance of the writ petitioner has been redressed and if at all any encroachment is identified in that locality, appropriate steps are to be taken to evict the encroachers for providing free access to the people of that locality for reaching the burial ground and for public usage.



8. With these observations, the writ petition stands disposed of. No Costs. Consequently, the connected Writ Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rap/ars
To

- 1.The District Collector,
Erode District,
Erode.
- 2.The Block Development Officer,
Modakkurichi Panchayat Union,
Modakkurichi, Erode Taluk and District.
- 3.The Tahsildar,
Erode Taluk,
Erode.

+1 cc to Government Pleader Sr.NO. 50502

W.P.No.26997 of 2016

GPL(CO)
A.SK(13.10.2021)