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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2021

CORAM :

THE HON'BLE MR.JUSTICE N.KIRUBAKARAN
and
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

W.P.No.16367 of 2021

Thangavel

...Petitioner

Vs

1.The District Collector,
District Collectorate,
Namakkal District,
Tiruchengode Road,
Namakkal - 637 003.

2.The Tahsildar,
Mohanur Taluk,
Namakkal District.

3.The Inspector of Police,
Mohanur Taluk,
Namakkal District.

(R3, suo motu, impleaded vide order dated
11.08.2021 passed in W.P.No.16367 of 2021)

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance a Writ of Mandamus, directing the Respondents 1 and 2 herein to remove the encroachment made by some of the villagers by laying of fence to prevent the petitioner from using the pathway comprised in Survey No.197 of Pettapalayam Village, Mohanur Taluk by considering his representation dated 24.06.2021.

For Petitioner : Mr.P.Paramasivadosh for Mr.S.Senthil.
For Respondents: Mrs.R.Anitha, Government Advocate.

O R D E R

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

The matter has been heard through "Video Conference".



2.The Petitioner has come before this Court seeking Writ of Mandamus directing the Respondents to remove the encroachments laid in the pathway comprised in Survey No.197 of Pettapalayam Village, Mohanur Taluk by considering his representation dated 24.06.2021.

3.Heard Mr.Paramasivados, Learned Counsel for the Petitioner and Mrs.R.Anitha, Learned Government Advocate for the Respondents.

4.It is seen from the records that the Petitioner owns the lands comprised in S.Nos.151/14, 151/15, 151/18 of Pettapalayam Village of Namakkal Taluk and District and he is using the pathway comprised in Survey No.197 of Pettapalayam Village, Mohanur Taluk which has been classified as Government Poromboke land. The Second Respondent by proceedings dated 01.06.2018 permitted the Petitioner to use the said pathway comprised in Survey No.197 of Pettapalayam Village, Mohanur Taluk having width of 15 feet. However, it is stated that few encroachers have fenced the said pathway and preventing the Petitioner from having free access to his lands.

5.A perusal of the A-Register extract would show that the land comprised in Survey No.197 of Pettapalayam Village, Mohanur Taluk has been classified as 'Pathway' and the FMB sketch would also prove the same. Further, the Second Respondent by proceedings dated 01.06.2018, taking note of the absence of pathway to the Petitioner's lands, granted permission for using the said pathway comprised in Survey No.197 of Pettapalayam Village, Mohanur Taluk having width of 15 feet, to have access for the Petitioner to his properties.

6.In view of the above, it is clear that the Petitioner is entitled to use the said pathway as revenue records would show that it is a pathway and permission has been granted by the proceedings of the Second Respondent as early as on 01.06.2018.

7.Hence, the Second Respondent is directed to remove the encroachment made in Survey No.197 of Pettapalayam Village, Mohanur Taluk within a period of two weeks from the date of receipt of a copy of this order.

8.Since the entire village is against the Petitioner, appropriate police protection has to be given by the jurisdictional police for removal of the encroachments. Hence, this Court, suo motu, impleads, "The Inspector of Police, Mohanur Taluk, Namakkal District" as Third Respondent to the proceedings. Mrs.R.Anitha, Learned Government Advocate takes notice on behalf of the newly impleaded Respondent. The newly



impleaded Respondent is directed to give necessary police protection for removal of encroachments.

9. With the above directions, this Writ Petition is disposed of. No costs.

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s/d-
Assistant Registrar (CS-VI)

True Copy

Sub-Assistant Registrar

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To

1. The District Collector,
District Collectorate,
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Namakkal - 637 003.

2. The Tahsildar,
Mohanur Taluk,
Namakkal District.

3. The Inspector of Police
Mohanur Taluk, Namakkal District

+1 CC to Mr. S. Senthil, Advocate sr 39843.

W.P.No.16367 of 2021

GPL (CO)
SP(17/09/2021)