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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2021

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

AND

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

W.P. No. 15284 of 2020

1. P. Manimuthu
2. P. Servai
3. K. Suresh
4. C. Sivakumar
5. K. Rajendran
6. P. Subramani

..Petitioners

Vs.

1. The District Collector,  
Salem Combined Collectorate Campus,  
Salem.
2. The Block Development Officer,  
Omalur, Salem.
3. I. Samuel
4. A. Sekar
5. A. Raghupathi
6. M. Sengottaiyan
7. Maheswaran
8. The Tahsildar,  
Omalur Taluk,  
Salem District.

(R8 suo motu impleaded by order of Court  
dated 28.06.2021 by NKKJ & TVTSJ)

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the 1<sup>st</sup> respondent to consider the petitioner's representation dated 01.08.2020 to remove the encroachers and pass necessary orders as per law for the removal in respect of the concrete publicpathway in Thiruvillaku (North), Thumbampatti Village, Omalur Taluk, Salem District - 636 306.

For Petitioners :: Mr.K.R. Krishnan

For Respondents :: Mr.P. Balathandayutham  
State Government Counsel for  
R1 & R8



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Mr.M. Elumalai for R2

R3 to R7-No Appearance

O R D E R

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

The matter is heard through videoconferencing.

2. The petitioners have come before this Court seeking issuance of a Writ of Mandamus directing the 1<sup>st</sup> respondent to consider the petitioner's representation dated 01.08.2020 to remove the encroachers and pass necessary orders as per law for the removal in respect of the concrete public pathway in Thiruvillaku (North), Thumbampatti Village, Omalur Taluk, Salem District - 636 306.

3. Since many survey numbers are mentioned in the affidavit stating that it is a road, this Court feels it appropriate to suo motu implead the Tahsildar, Omalur Taluk, Salem District as 8<sup>th</sup> respondent to the writ petition. Accordingly, "The Tahsildar, Omalur Taluk, Salem District" is suo motu impleaded as 8<sup>th</sup> respondent to the writ petition. Mr.P. Balathandayutham, learned State Government Counsel takes notice on behalf of the newly impleaded 8<sup>th</sup> respondent.

4. The petitioners allege that there is a concrete road used by the people of Teravelluku North to reach the main road. On either side of the concrete road, there are grama natham poramboke lands and many houses have been constructed there. According to the petitioners, there are people residing in S.Nos. 49/1, 10, 26, S.No. 676/6, 678/24, 679/15, 680/18, 681/16, 682/10, 11, 20, 682/1, 18;, 683/6, 10, 19, 681/1, 12, 685/11, 685/1, 688/11, 16; 689/115, 690/1, 4, 9; 691/3, 692/7 and 683/8 by constructing houses encroaching the road in the above survey numbers. Owing to such constructions encroaching upon major portion of the road, the street has become very small and the people could barely walk to reach the main road. Likewise, there is a water body in S.No. 53 and that has also been encroached upon by some of the encroachers by putting up construction. In order to remove the encroachments in the pathway and on the waterbody, the petitioners gave representation dated 01.08.2020 to the 1<sup>st</sup> respondent. Since the same has not been considered till date, the petitioners are before this Court.

5. Heard Mr. K.R.Krishnan, learned counsel for the petitioners, Mr.P. Balathandayutham, learned State Government



Counsel for respondents 1 and 8 and Mr.M. Elumalai, learned Additional Government Pleader for the 2<sup>nd</sup> respondent. Though respondents 3 to 7 have been served and their names are printed in the cause list, no one has entered appearance on their behalf.

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6. Since many survey numbers are quoted by the petitioners, it would be appropriate to direct the Block Development Officer, Omalur, Salem/the 2<sup>nd</sup> respondent and the Tahsildar, Omalur, Salem/the 8<sup>th</sup> respondent to conduct a joint inspection with regard to the encroachments on the road and waterbody, after giving notice to the petitioners as well as to private respondents and find out the length and breadth of the road said to have been encroached upon. If any encroachment has been made on the road as well as on the water body either by private respondents or any other person, the same has to be removed after giving notice to the party concerned and after affording an opportunity of hearing. The said exercise has to be completed within a period of 16 weeks from the date of receipt of a copy of this order.

7. It is made clear that the petitioners, the private respondents and other encroachers shall be given notice before inspection and only in their presence, the inspection has to be conducted and after hearing them, orders can be passed. No order shall be passed, without putting all the parties concerned on notice and any violation of this order would amount to contempt of Court and the parties are at liberty to move this Court, in case any action is taken without giving notice.

8. The writ petition is disposed of accordingly. No costs.

Sd/-  
Assistant Registrar(CS )

//True Copy//

Sub Assistant Registrar

nv

To

1. The District Collector,  
Salem Combined Collectorate Campus,  
Salem.



2. The Block Development Officer,  
Omalur, Salem.

3. The Tahsildar,  
Omalur, Salem.

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+1cc to Mr.M.Elumalai , Advocate SR.No.29860

+1cc to Mr.K.R.Krishnan , Advocate SR.No.29981

+1 cc to Government Pleader Sr.No.30277

W.P. No. 15284 of 2020

GMI (CO)  
KM(04.08.2021)