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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2021

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

AND

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

W.P. No. 19435 of 2020
&
W.M.P. No. 24020 of 2020

Palanisamy

Vs.

...Petitioner

1. The District Collector,
Tiruppur District.
2. The Tahsildar,
Madathukulam Taluk,
Madathukulam,
Tiruppur District.
3. The Block Development Officer,
Madathukulam Panchayat,
Tiruppur District.
4. The Panchayat President,
Madathukulam Panchayat,
Tiruppur District.
5. Deivasigamani

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing respondents 1 to 4 to restore the public pathway in S.F. No. 64, B1A1, Karatholuvu Village, Madathukulam Taluk, Tiruppur District by considering the petitioner's representation dated 16.06.2020 and the communication of the 4th respondent dated 17.06.2020 to the 2nd respondent.



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For Petitioner :: Mr.D.R. Arunkumar

For Respondents :: Mr.S. Kamalesh Kannan
 Govt. Advocate for
 R1 to R4
 Mr.M.N. Balakrishnan
 for R5

O R D E R

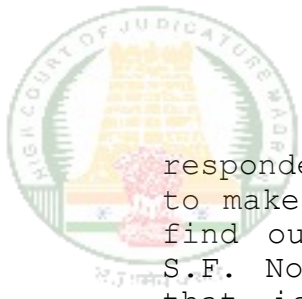
(Order of the Court was made by N.KIRUBAKARAN,J.)

The matter is heard through videoconferencing.

2. The petitioner contends that the private respondent has encroached upon the pathway and blocked the pathway, which is a poramboke land. Therefore, the petitioner gave a representation on 16.06.2020. The 4th respondent Panchayat President sent a communication to the 2nd respondent to measure the cart track comprised in S.No. 64/B1A1. When the official respondents initiated steps to restore the said pathway, immediately, O.S No.150/2020 was filed before the District Munsif Court, Madathukulam. When things stand so, the petitioner has come before this Court by filing this writ petition seeking a writ of mandamus directing the official respondents to restore the public pathway in S.F. No. 64, Karatholuvu Village, Madathukulam Taluk, Tiruppur District by considering the petitioner's representation dated 16.06.2020 and the communication of the 4th respondent dated 17.06.2020 to the 2nd respondent..

3. Heard Mr. D.R. Arunkumar, learned counsel for the petitioner and Mr.S. Kamalesh Kannan, learned Government Advocate for respondents 1 to 4 and Mr. M.N. Balakrishnan for the 5th respondent.

4. A perusal of the records especially, the plaint in O.S. No. 150/2020 would reveal that the 5th respondent has only prayed for permanent injunction restraining defendants 1 to 4 therein, i.e, petitioner herein and 3 others from entering the cart track or take their vehicles and to restrain the 7th defendant therein/2nd respondent herein from measuring the property without prior notice to him and also not to restore the cart track. Such a prayer cannot be granted. When the petitioner alleges that the 5th respondent has encroached upon the pathway, the official respondents are duty bound to measure the property to see whether the pathway has been encroached upon by the 5th



respondent or not. Therefore, respondents 2 to 4 are directed to make an inspection of the property, measure the property and find out as to whether the 5th respondent has encroached upon S.F. No. 64/B1A1, Karatholuvu Village, Madathukulam Taluk. If that is so, respondents 2 to 4 are directed to follow due process of law for removal of encroachment put up by the 5th respondent within 12 weeks from the date of receipt of a copy of this order.

5. The writ petition is disposed of accordingly. No costs. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

nv

To

1. The District Collector,
Tiruppur District.
2. The Tahsildar,
Madathukulam Taluk,
Madathukulam,
Tiruppur District.
3. The Block Development Officer,
Madathukulam Panchayat,
Tiruppur District.
4. The Panchayat President,
Madathukulam Panchayat,
Tiruppur District.

+1cc to Mr.D.R. Arun Kumar, Advocate, Sr.24918

W.P. No. 19435 of 2020

UM(co)
NSK 14/07/2021