



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
AND
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Petition No. 27214 of 2021

Jegan

.. Petitioner

Versus

- 1.The District Collector
Office of the District Collector
Thiruvarur.
- 2.The Revenue Divisional Officer
Office of the Revenue Divisional Officer
Mannarkudi, Thiruvarur District.
- 3.The Thasildhar
Office of the Thasildhar
Thiruthuraipoondi Taluk
Thiruvarur District.
- 4.The Commissioner
Office of the Municipality
Thiruthuraipoondi Taluk
Thiruvarur District.

5.V.Chidambaram

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 4 to remove the encroachment on the 16 feet road available, comprised in Survey No. 137/1A5 Town Survey Ward B, Block No.6, T.S.No.9, Thiruthuraipoondi by the fifth respondent within the stipulated time in view of the petitioner's representation dated 20.10.2021 in accordance with law.

For Petitioner : Mr. M.Venkatesh

For Respondents : Mr. Alagu Goutham
Government Advocate for RR1 to 3



ORDER

(Order of the Court was made by MOHAMMED SHAFFIQ, J.)

The petitioner has come forward with this writ petition praying to issue a Writ of Mandamus directing the first to fourth respondents to remove the encroachment said to have been made by the fifth respondent on the 16 feet road comprised in Survey No. 137/1A5 Town Survey Ward B, Block No.6, T.S.No.9, Thiruthuraipoondi by considering his representation dated 20.10.2021.

2. According to the petitioner, his family owns several properties in and around Aarupadaiyappa Temple, near Canara Bank, Thiruthuraipoondi Town. However, they sold certain lands and at that time, they executed a Gift deed in favour of the fourth respondent, which was registered as document No. 950 of 2014, on the file of the Sub-Registrar Office, Thiruthuraipoondi for the purpose of laying road for the easy access to the public at large. Instead of that, they are using the 16 feet road in Survey No. 137/1A5, Town Survey Ward B, Block No.6, T.S.No. 9, Thiruthuraipoondi, from the date of gift deed. While so, the fifth respondent has purchased the property adjacent to the 16 feet road and encroached the public road measuring to an extent of 5 feet and put up a fencing thereon. On account of the attitude of the fifth respondent, not only the petitioner, but also the public, have been severely affected. Complaining about the attitude of the fifth respondent in encroaching the public road, the petitioner submitted a representation dated 20.10.2021 to the respondent authorities. As there was no response forthcoming from the official respondents, the petitioner has come up with this writ petition for the aforesaid relief.

3. Heard both sides and perused the documents enclosed in the typed set of papers.

4. It is seen from the records that the petitioner had executed a gift deed vide document No. 950 of 2014 in favour of the fourth respondent for using his land as road. The fifth respondent said to have encroached the public road, thereby causing much hardship not only to the petitioner, but also to the general public at large. In this regard, the petitioner made a representation on 20.10.2021 to the official respondents with a request to remove the encroachment on the 16 feet road. However, no action was taken on the same. Therefore, the learned counsel prayed for appropriate direction to the respondent authorities to consider the petitioner's representation and pass orders, on merits and in accordance with law.

5. Considering the above facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court, without going into the merits of the case, directs the third and fourth respondents to conduct an enquiry, afford an opportunity of hearing to the



petitioner and the fifth respondent, examine the documentary evidence, if any, submitted by them and thereafter, pass appropriate orders, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that if the fifth respondent has encroached the public road, the respondent authorities shall deal with the same, in the manner known to law.

6. With the above direction, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

Maya/rsh

To

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Thiruvarur District.

+1cc to Government Pleader SR. No.69896

W.P. No. 27214 of 2021

NMI (CO)
PR (20/01/2022)