



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2021

CORAM :

The Hon'ble Mr.JUSTICE T.S.SIVAGNANAM

AND

The Hon'ble Mrs.JUSTICE S.ANANTHI

W.P(MD).No. 5693 of 2021

WEB COPY

1. G. Suresh Kumar
 2. Chellakannu Rawuthar
- ... Petitioners

Vs

1. The District Collector,
Pudukkottai,
Pudukkottai District.
2. The Revenue Divisional Officer,
Pudukkottai,
Pudukkottai District.
3. The Tahsildar,
Ponnamaravathi Taluk,
Pudukkottai District.
4. The Block Development Officer,
Ponnamaravathi Panchayat Union,
Ponnamaravathi Taluk,
Pudukkottai District.
5. Hakeem
6. Mahamatha Begam

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ or order or direction in the nature of Writ of Mandamus directing the respondents 1 to 3 to remove the encroachment made in S.F. No.340/2016 to an extent of 1 cent in public pathway Ettarai Way (இட்டறை பாதை) of Thirukkalambar Village, Ponnamaravathi Taluk, Pudukkottai District made by the respondents 5 & 6 by considering the petitioner's representation dated 16.12.2020.

For Petitioners : Mr.K. Baalasundharam

For R-1 to R-4 : Mr.R. Baskaran,
Standing Counsel for Government

For R-5 & R-6 : Mr.G. Mathavan



ORDER

[Order of the Court was made by **T.S. SIVAGNANAM, J.**]

This writ petition has been filed praying for issuance of writ of mandamus to direct the respondents 1 to 3 to remove the encroachment made in S. No.340/2016 measuring to an extent of 1 cent, which according to the petitioner is a public pathway (இட்டறை பாதை) of Thirukkalambar Village, Ponnamaravathi Taluk, Pudukkottai District, by considering the representation.

2. After elaborately hearing the learned counsel for the parties and carefully perusing the materials placed on record, we find that the Tashildar/3rd respondent has proceeded on the basis that there is a pathway in the land in question.

3. This has lead to an order, dated 17.03.2014, which admittedly has been passed without notice to the respondents 5 & 6. Even prior to the order, dated 17.03.2014, the respondents 5 & 6 have filed a suit in O.S.No.16 of 2014, on the file of the District Munsif-Cum-Judicial Magistrate Court, Thirumayam and in which an order of interim injunction was granted and the order of interim injunction was in force, when the 3rd respondent herein/Tahsildar, Ponnamaravathi Taluk, Pudukkottai District, has passed an order, dated 17.03.2014. Subsequently, the suit has been dismissed for default by Judgment, dated 21.06.2018 and we are informed by the learned counsel for the respondents 5 & 6 that steps have been taken to restore the suit to the file of the Court.

4. Be that as it may, before making a specific order mentioning that the property is a path way or the Government land, the Tahsildar has to draw reference from the various revenue records, more particularly, 'A' register. It is only thereafter action has to be initiated as against any person alleging encroachment. However, in the instant case, the order, dated 17.03.2014, appears to have been passed by the Tashildar, based on the description of the property in sale deed/settlement deed. This procedure is incorrect. Therefore, what is required to be done by the Tashildar is to conduct a comprehensive enquiry, examine all the revenue records, especially, ancient records and then take a decision in the matter.

5. In order to ensure that the proceedings are commenced afresh and proceeded in accordance with law, we exercise our discretion and quash the order passed by the 3rd respondent/Tahsildar, Ponnamaravathi Taluk, Pudukkottai District, dated 17.03.2014, in Na.Ka. No.5131/2013/S with a direction to the Tahsildar, Ponnamaravathi Taluk, to conduct an enquiry into the matter, after issuing notice to the petitioner and respondents 5 & 6 and pass a speaking order, as expeditiously as possible, preferably within a period of three months, from the date of receipt of a copy



6. With the above observations, this Writ Petition is disposed of. No Costs.

Sd/-

Assistant Registrar (AE)

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ksa/rm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector,
Pudukkottai,
Pudukkottai District.
2. The Revenue Divisional Officer,
Pudukkottai,
Pudukkottai District.
3. The Tahsildar,
Ponnamaravathi Taluk,
Pudukkottai District.
4. The Block Development Officer,
Ponnamaravathi Panchayat Union,
Ponnamaravathi Taluk,
Pudukkottai District.

W.P (MD) .No. 5693 of 2021
07.06.2021

KB(16.06.2021) 3P 5C