



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.10000 of 2021

WEB COPY

V.C.Seenivasan

... Petitioner

Vs.

1.The Commissioner,
Office of the Commissioner,
Madurai City Municipal Corporation Office,
Madurai District.

2. R.Thilagavathi ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the first respondent herein to remove the encroachment by removing the fencing put up by the second respondent across the 20 feet common public road in S.No.120/11A, which blocked the free access of the petitioner's representation, dated 30.04.2021, within the time frame as fixed by this Court.

For Petitioner : Mr.K.Mathan

For R-1 : Mr.R.Murali

Standing Counsel

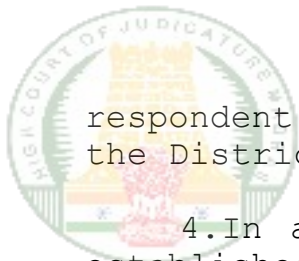
O R D E R

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

We have heard Mr.K.Mathan, learned counsel appearing for the petitioner and Mr.R.Murali, learned Standing counsel appearing for the first respondent.

2.This Writ Petition has been filed by the petitioner to remove the fence put up by the second respondent in 20 feet passage which according to the petitioner is a common public road. In this regard, a representation was given to the first respondent / Corporation on 30.04.2021.

3.Mr.R.Murali, learned Standing counsel appearing for the first respondent, on instructions, would submit that after receipt of the representation, the officials of the Corporation visited the spot and found that there is a pathway. But, there is another access available to the petitioner. Nevertheless, they were contemplating of taking appropriate action and in the meantime, the second



respondent has filed a suit in O.S.No.248 of 2021, on the file of the District Munsif Court, Madurai, against the petitioner herein.

4.In any event, if there is a public pathway and it has been established so, then the first respondent Corporation should take action and ensure that there is no encroachment in a public pathway. However, if there is a claim made by the second respondent that it is not a public pathway, then the second respondent should produce the documents to establish the same and be considered by the first respondent Corporation.

5.In the light of the above, we dispose of this Writ Petition by directing the first respondent to consider the petitioner's representation, dated 30.04.2021 and issue notice to the second respondent and take a decision in accordance with law. This direction shall be complied with by the first respondent within a period of thirty (30) days from the date of receipt of a copy of this order. There shall be no order as to costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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.

TM/PS

TO,

1.The Commissioner,
Office of the Commissioner,
Madurai City Municipal Corporation Office,
Madurai District.

+1 CC to M/s.R.MURALI, Advocate (SR-19198[F] dated 11/06/2021)

+1 CC to M/s.K.MATHAN, Advocate (SR-19258[F] dated 14/06/2021)

ORDER MADE IN
W.P. [MD]No.10000 of 2021
10.06.2021