



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.14900 of 2020

WEB COPY

R.Rajathi : Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Thanjavur District.

2.The District Revenue Officer,
Office of the District Revenue Officer,
Thanjavur District.

3.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Thanjavur District.

4.The Thasildar
Orathanadu Taluk,
Thanjavur District.

5.Thiyagarajan : Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the respondents 1 to 4 to remove the encroachments made by the fifth respondent in Government land in survey No.167/23 Nadu Pallar Street, Neyveli Vadapathy Post, Orathanadu Taluk, Thanjavur District, by considering the representation submitted by the petitioner on 28.09.2020 within the time stipulated by this Court.

For Petitioner : Mr.R.Alagumani

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

For R-5 : Mr.Dinesh Kumar
(No appearance)

ORDER

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

The Writ Petitioner seeks for a direction upon the respondents 1 to 4 to remove the encroachments made by the fifth respondent in Government land in Survey No.167/23, Nadu Pallar



Street, Neyveli Vadapathy Post, Orathanadu Taluk, Thanjavur District, by considering her representation, dated 28.09.2020.

2.The fifth respondent has filed a counter affidavit taking the following stand :

"5. I respectfully submits that, I am the resident of Nadu Pallar Theru, Neyvelivadapathy, Orathanadu Taluk, Thanjavur District, and in peaceful possession and enjoyment of the property in S.No.167/24, which measures around 3.7 ares, approximately measuring about, 9 cents for which patta has been issued by the Revenue Authorities in my name and Balakrishnan, who my paternal uncle.

6. I respectfully submits that, I deny the averment of the petitioner that, there was public pathway, in the survey number 167/23 in Nadu Pallar Theru, Neyvelivadapathy, Orathanadu Taluk, Thanjavur District and that I have encroached the pathway. I strongly deny the averment of the petitioner that, I have encroached the public pathway and the way to the house of the petitioner. As the matter of fact I have not encroached any pathway anywhere including this S.No.167/23. In para No.6 of the petitioner it is mentioned that she is constructing the building and it is difficult for her to bring the construction materials and as if she is enduring hardship because of me and this statement is absolutely false and frivolous as there is no way to use S.No.167/23 to bring her materials as it is not pathway and covered by patta lands and all the four directions."

3.The learned counsel for the petitioner submitted that the fifth respondent has encroached the pathway.

4.From the typed-set of papers, we find that there is no FMB sketch enclosed and we cannot proceed merely based upon the reply given under the Right to Information Act.

5.Therefore, we dispose of the writ petition, by directing the petitioner to appear in person before the Tahsildhar, fourth respondent, enclose appropriate documents, which are available with the petitioner to establish that there is a public pathway in existence and upon receiving such representation, the fourth respondent shall order for a spot inspection to be conducted by his officers and based on that report, reasoned orders be passed in accordance with law. This direction be complied with within a period of twelve weeks from the date of receipt of a copy of this order.



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

Sd/-

Assistant Registrar(AD-II)

// True Copy //

WEB COPY

/ /2021

Sub Assistant Registrar(CS)

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,
Office of the District Collector,
Thanjavur District.
2. The District Revenue Officer,
Office of the District Revenue Officer,
Thanjavur District.
3. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Thanjavur District.
4. The Thasildar
Orathanadu Taluk,
Thanjavur District.

+1 CC to M/s.SPL GP (SR-19931[F] dated 22/06/2021)

ORDER MADE IN
W.P. [MD]No.14900 of 2020
21.06.2021

mj (CO)
TR(08.07.2021) 3P 6C