



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.17266 of 2021

T.Parameshwari

... Petitioner

Vs.

1.The District Collector,  
Theni District,  
Theni.

2.The Tahsildhar,  
Periyakulam Taluk,  
Theni District.

3.The Executive Officer,  
Vadugapatti Town Panchayat,  
Periyakulam Taluk,  
Theni District.

4.Manoj Kumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the third respondent to remove the encroachment made by the fourth respondent in front of the petitioner's house which is classified as "Cart Road" bearing Survey No.1131/1A situated at Door No.1A, Vadugapatti, Periyakulam Taluk, Theni District pursuant to the order in Na.Ka.No.1948/2020/AA2 dated 19.07.2021 issued by the second respondent.

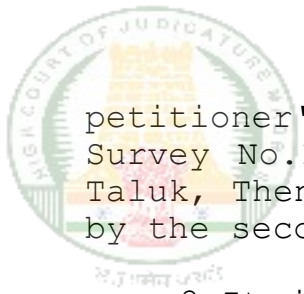
For Petitioner : Mr.S.M.Mohan Gandhi

For RR 1 to 3 : Mr.B.Saravanan  
Government Advocate

**ORDER**

(Order of the Court was made by **M.DURAI SWAMY, J.**)

The petitioner has filed the above Writ Petition to issue a Writ of Mandamus, directing the third respondent to remove the encroachment made by the fourth respondent in front of the



petitioner's house which is classified as a "Cart Road" bearing Survey No.1131/1A situated at Door No.1A, Vadugapatti, Periyakulam Taluk, Theni District, pursuant to the order dated 19.07.2021 issued by the second respondent.

2.It is the case of the petitioner that the fourth respondent had encroached the road blocking the ingress and egress of the petitioner.

3.Mr.B.Saravanan, learned Government Advocate, taking notice for the respondents 1 to 3, submitted that the petitioner has already filed a Writ Petition in W.P(MD)No.18726 of 2020 to issue a Writ of Mandamus, directing the respondents 1 to 3 to remove the encroachment made by the fourth respondent.

4.The prayer in the earlier Writ Petition as well as in the present Writ Petition are identical. The Division Bench of this Court in W.P(MD)No.18726 of 2020, by order dated 16.02.2021, in paragraph No.4 has stated that the Court is not willing to pass any positive order in the Writ Petition for the reason that the fourth respondent had filed a civil suit challenging the action initiated by the official respondents in O.S.No.85 of 2020 on the file of the Sub Court, Periyakulam. The fourth respondent has filed the suit for declaration and permanent injunction restraining the third respondent from interfering with his physical possession and also not to demolish the building put up by him. Admittedly, the said suit is pending before the trial Court as of today. When this Court had already considered the prayer for removing the encroachment made by the fourth respondent in the earlier Writ Petition in W.P(MD) No.18726 of 2020, the petitioner cannot be allowed to file Writ Petition after Writ Petition for the very same relief. The rights of the parties can be determined only after the dismissal of the civil suit in O.S.No.85 of 2020.

5.In such view of the matter, we are not inclined to entertain the Writ Petition. Accordingly, the Writ Petition is dismissed. In case of the Civil Suit in O.S.No.85 of 2020 on the file of the Sub Court, Periyakulam, filed by the fourth respondent is being dismissed, the authorities are at liberty to take appropriate action for removing the encroachment. No costs.

Sd/-

Assistant Registrar (AE)

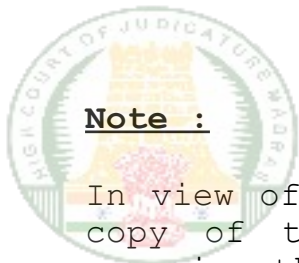
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Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



**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,  
Theni District,  
Theni.

2.The Tahsildhar,  
Periyakulam Taluk,  
Theni District.

3.The Executive Officer,  
Vadugapatti Town Panchayat,  
Periyakulam Taluk,  
Theni District.

+1 CC to M/s.S.M.MOHAN GANDHI, Advocate ( SR-30172[F] dated 24/09/2021 )

+1 CC to M/s.SPL. GP ( SR-30141[F] dated 24/09/2021 )

**W.P (MD) No.17266 of 2021**  
**23.09.2021**

MGJ(04.10.2021) 3P 6C