



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAISWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.18855 of 2021

and

W.M.P(MD)Nos.15690 & 15691 of 2021

Jeyaraj

... Petitioner

Vs.

The Block Development Officer,
Vadipatti Panchayath Union,
Vadipatti,
Madurai District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent dated 13.10.2021 in Na.Ka.No.500/2019/T1 and quash the same and consequently direct the respondent to measure the properties comprised in Survey Nos.36/5, 35, Mullipallam Village, Vadipatti Taluk, Madurai District in the petitioner's presence on conducting due enquiry in accordance with the provisions of the Tamil Nadu Panchayat Act, 1994.

For Petitioner : Mr.S.Vellaichamy
for M.V.Venkataseshan

For Respondent : Mr.P.Thilak Kumar
Government Pleader

ORDER

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

The petitioner has filed the above Writ Petition to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent dated 13.10.2021 and to quash the same and consequently, directing the respondent to measure the properties comprised in Survey Nos.36/5, 35, Mullipallam Village, Vadipatti Taluk, Madurai District in the presence of the petitioner, after conducting due enquiry in accordance with the provisions of the Tamil Nadu Panchayat Act, 1994.

2.The respondent issued the impugned notice dated 13.10.2021 in respect of Survey No.35. It is not in dispute that the petitioner is



having right in respect of Survey No.36/5 and not in respect of Survey No.35, which is a cart track ('Vandipathai').

3.Mr.S.Vellaichamy, learned counsel appearing for the petitioner asserted that the petitioner is having right only in respect of Survey No.36/5 and no right in respect of Survey No.35, which is a 'Vandipathai'.

4.Mr.P.Thilak Kumar, learned Government Pleader taking notice for the respondent, submitted that the respondent is taking action to remove the encroachment made in Survey No.35 and not in Survey No.36/5.

5.Since the land in Survey No.35 is a cart track meant for public use, no encroachment can be allowed to continue in the said land. In these circumstances, we do not find any error or irregularity in the order passed by the respondent. The Writ Petition is liable to be dismissed. Accordingly, the same is dismissed. However, we make it clear that in the event of the respondent taking any action against the petitioner in respect of Survey No.36/5, the same shall be done only by issuing notice to him as per the provisions of the law. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

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
The Block Development Officer,
Vadipatti Panchayath Union,
Vadipatti,
Madurai District.

+1 CC to M/s.M.V.VENKATASESHAN, Advocate (SR-32168[F] dated 21/10/2021)

+1 CC to M/s.SPL.GP (SR-32251[F] dated 22/10/2021)

W.P (MD) No.18855 of 2021
21.10.2021

MGJ/UV(29.10.2021) 2P 4C

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