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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU
W.P.No.440 of 2022

Dr.E.Manikandan

... Petitioner

Vs

1.The District Collector,
Collectorate Office,
Ariyalur District.

2.The Revenue Divisional Officer,
Udayarpalayam,
Ariyalur District.

3.The Commissioner,
Municipality Office,
Jayamkondam Municipality,
Ariyalur District.

4.The Tahsildar,
Udayarpalayam Taluk,
Ariyalur District.

5.Jerom Stanely,

6.Reeta Marry

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents 1 to 4 to take action and remove the encroachments made by the respondents 5 and 6 in S.No.335/1C2 which has been classified as pathway (pathai) situated at Jayamkondam Village, Udayarpalayam Taluk, Ariyalur District.

For the Petitioner : Mr.K.Balu



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For the Respondents : Mr.P.Muthukumar
State Government Pleader
for respondent Nos.1, 2 & 4

: Mr.L.P.Maurya
for respondent No.3

ORDER

(Order of the Court was made by
the Hon'ble Acting Chief Justice)

The writ petition has been filed to seek a direction on the official respondents to take action for removal of the encroachments made by respondent Nos.5 and 6 in S.No.335/1C2 situated at Jayamkondam Village, Udayarpalam Taluk, Ariyalur District. It is alleged that the pathway to the extent of 10 to 15 feet has been blocked and to support the argument, copies of photographs have been enclosed along with the writ petition. The petitioner, thus, prayed for an immediate action in the matter pursuant to the representation made by him.

2. Learned counsel appearing for respondent No.3 submits that the construction was to be made by respondent Nos.5 and 6 as per the approved plan. Since violation was found in the construction, notice was caused on respondent Nos.5 and 6 on 19.11.2021 and after such notice, the construction was stopped by respondent Nos.5 and 6.

3. Learned Government Pleader, appearing for the respondents 1,2 and 4, submits that the survey number given by the petitioner is not a pathway, but it is a private way. In view of the above, a prayer is made to dismiss the writ petition.

4. We have considered the rival submissions and perused the records.

5. A direction has been sought to remove the encroachments made by respondent Nos.5 and 6 in S.No.335/1C2 which has been classified as pathway (pathai). The construction of respondent Nos.5 and 6 was undertaken only after approval of the plan, but finding deviation in the construction, respondent No.3 caused notice to respondent Nos.5 and 6. The notice was stated to be given on 19.11.2021, but the date was wrongly mentioned in the said notice as 20.12.2021. On a perusal of the notice dated 19.11.2021 issued by the third respondent, we find that 30 days time was given to remove the deviation. Immediately, after the receipt of the notice, respondent Nos.5 and 6 have stopped their construction activities as stated. Yet, the petitioner has preferred this writ petition without any reason.



In view of the above, we dispose of the writ petition with a direction to the respondents 1 to 4 not to allow the construction of the building in violation of the approved plan and at the same time, it should be ensured that S.No.335/1C2 is not encroached upon. No costs.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To:

- 1.The District Collector,
Collectorate Office,
Ariyalur District.
- 2.The Revenue Divisional Officer,
Udayarpalayam,
Ariyalur District.
- 3.The Commissioner,
Municipality Office,
Jayamkondam Municipality,
Ariyalur District.
- 4.The Tahsildar,
Udayarpalayam Taluk,
Ariyalur District.

+1cc to Mr.K.Balu, Advocate SR.No.2648
+1cc to Mr.L.P.Maurya, Advocate SR.No.2450
+1cc to the Government Pleader, S.R.No.3097

[29/04/2022]

W.P.No.440 of 2022

KSM(CO)
GN(21/01/2022)