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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2022

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THE HONOURABLE MR.JUSTICE T.RAJA
and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.3859 of 2022

R.Ramasamy

...Petitioner

-vs-

1. The District Collector,
Namakkal District,
Namakkal-Trichy Rod,
Namakkal-637 001.
2. The Revenue Divisional Officer,
Namakkal-Trichy Road,
Namakkal District,
Namakkal-637 001.
3. The Tahsildar,
Senthamangalam,
Namakkal-637 409.
4. M.Gopal
5. R.Kannayan

...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, directing the 4th respondent to consider and pass orders on the petitioner's representation dated 01.11.2021 for removal of the wall blocking the common passage for access to the petitioner's property situated at Survey No.179/6A, Ellipalayam, Kondappanaikanpatti, Senthamangalam, Namakkal District in accordance with law within a time frame fixed by this Court.

For Petitioner : Mrs.Nalini Chidambaram,
Senior Counsel
for Mrs.C.Uma

For Respondents
1 to 3 : Mr.A.Selvendran,
Spl.G.P.



ORDER

(Order of the Court was made by T.RAJA, J.)

This Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the 4th respondent to consider and pass orders on the petitioner's representation dated 01.11.2021 for removal of the wall, blocking the common passage for access to the petitioner's property situated at Survey No.179/6A, Ellipalayam, Kondappanaikanpatti, Senthamangalam, Namakkal District in accordance with law within a time frame fixed by this Court.

2. The grievance of the petitioner shows that as per the recitals of the Document No.2127/1957 dated 30.10.1957, it is mentioned that as per patta No.73, a common passage of three feet has been mentioned and the same was in use for a very long time by the petitioner as well as by the local villagers as per the old FMB, Senthamangalam and even as per the patta No.73 mentioned in the Registered Document No.2127/1957 dated 30.10.1957 the said common pathway belongs to Kondamanayakampati Panchayat Board. Moreover, the said Document No.2127/1957 is the first document registered in the Survey No.179.

3. The further grievance of the petitioner is that when he desired to renovate his building during the year 2019 and subsequently, at the time taking steps to measure the land, it was objected by some local villagers, namely, Kuppan, Gopal and Kannayan. Therefore a representation dated 20.10.2020 was given to the Chief Minister's Special Cell for protection of the subject land from illegal encroachment and also to measure the land on the basis of his representation in the presence of the 3rd respondent along with the Village Administrative Officer. Accordingly, on 23.07.2021, the 3rd respondent along with the Village Administrative Officer measured the land-in-question and boundaries were also marked. Subsequently, the petitioner has raised fence around the said property. Thereafter also, since the local villagers, namely, Kuppan, Gopal and Kannayan kept on creating problems against the petitioner and his family members, a complaint was given on 20.09.2021 by the petitioner's wife before the Senthamangalam Police Station and an FIR has been registered in Cr.No.721/2021. An enquiry was also conducted by the 3rd respondent on 21.09.2021 to resolve the issue of common pathway between the local villagers and the petitioner. When there was a Peace Committee Meeting held on 21.09.2021, the petitioner was not duly informed. Therefore, he was unable to make his appearance. Hence, it is now requested that one more enquiry may be held in the presence of the petitioner.



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4. Mr.A.Selvendran, Learned Special Government Pleader taking notice for the respondents 1 to 3 would state that although the petitioner did not appear, but one of his relatives appeared.

5. Since it is represented before us that the petitioner was not present on 21.09.2021 when the Peace Committee Meeting was held, the 3rd respondent herein, namely, the Tahsildar, Senthamangalam, Namakkal, is directed to hold a fresh enquiry by giving notice to the petitioner and the respondents 4 and 5 along with the Village Administrative Officer and the Inspector of Police, Senthamangalam Police Station and to proceed further in accordance with law. The entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of this Order.

6. With the above directions, the Writ Petition is disposed of. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The District Collector,
Namakkal District,
Namakkal-Trichy Rod,
Namakkal-637 001.

2. The Revenue Divisional Officer,
Namakkal-Trichy Road,
Namakkal District,
Namakkal-637 001.

3. The Tahsildar,
Senthamangalam,
Namakkal-637 409.

+1 CC to M/s.C. Uma, Advocate sr 16935

+1 CC to The Special Government Pleader sr 17447

W.P.No.3859 of 2022

SKM(CO)
SP(28/03/2022)