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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2022

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THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.5725 of 2022

S.Gowrishankar

... Petitioner

-vs-

1. The District Collector,
Coimbatore District,
Coimbatore.
2. The Member-Secretary,
Local Planning Authority,
Dr.Nanjachappa Road,
Coimbatore-18.
3. The Block Development Officer,
Village Panchayat,
Madukkarai Village Panchayat,
Madukkari, Coimbatore.
4. The Tahsildar,
Madukkarai Village,
Coimbatore District,
Coimbatore.
5. The Inspector of Police,
Madukkarai Police Station,
Coimbatore.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, directing the respondents to remove the encroachment made in Item Nos.1, 2 and 9 in Survey Nos.19/1, 20/3, 21/2 situated at Arisipalayam Village, Madukkarai Circle, Coimbatore District which is used as common pathway by considering the petitioner's representation dated 07.01.2022.



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For Petitioner : Mr.S.Saravanan

For Respondents : Mr.A.Selvendran,
1, 2, 4 and 5 Spl. Govt. Pleader

For 3rd respondent : Mr.S.Rajesh, Govt. Advocate

ORDER

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

This Writ Petition has been filed seeking issuance of a Writ of Mandamus, directing the respondents to remove the encroachment made in Item Nos.1, 2 and 9 in Survey Nos.19/1, 20/3, 21/2 situated at Arisipalayam Village, Madukkarai Circle, Coimbatore District which is used as a common pathway, by considering the petitioner's representation dated 07.01.2022.

2. Learned Counsel appearing for the petitioner would submit that the petitioner claims to be the owner of agricultural lands measuring to an extent of 2.74 Punjai acres, comprised in Survey Nos.19/2, 18/1, 15/1B1, 12/1 and 12/3 bearing Patta Nos.886 and 161 situated at Arisipalayam Village, Madukkarai Taluk, Coimbatore District. While so, the properties covered in Survey Nos.19/1, 20/3, 21/2 measuring to an extent of 6.82 punjai acres of agricultural lands were converted into 124 plots and developed as layouts named as 'Apple Garden' and the DTCP approval has been issued to the above layouts. In the above layouts, park and roads were gifted for public use in favour of the President of Arisipalayam Village Panchayat by registered Gift Deed Document No.10017/2012 dated 19.10.2012 registered in the Office of the Sub-Registrar, Kinathukadavu. When there is a common pathway in the layout in Item Nos.1, 2 and 9 in Survey Nos.19/1, 20/3 and 21/2, the said common pathway is situated on the North and East side of the petitioner's property. The petitioner also has been using the said common pathway without any hindrance. But some of the residents of Apple Garden are creating disturbance to the petitioner from using the common pathway. They have also made an attempt to put up a Wall by storing the hollow block stones in the common pathway. Therefore, a complaint was given to the 5th respondent, namely, The Inspector of Police, Madukkarai Police Station, Coimbatore. Since no action was taken on the said complaint, thereafter, the petitioner has given a representation on 07.01.2022 to the respondents to remove the encroachments made in Item Nos.1, 2, 9 in Survey Nos.19/1, 20/3 and 21/2 situated at Arisipalayam Village, Madukkarai Taluk, Coimbatore District. Finding no response for the same, the petitioner has filed this



Writ Petition before this Court.

3. Mr.A.Selvendran, learned Special Government Pleader takes notice for respondents 1, 2, 4 and 5 and Mr.S.Rajesh, learned Government Advocate takes notice for 3rd respondent.

4. Learned Special Government Pleader would submit that the representation of the petitioner dated 07.01.2022 would be considered by the 3rd respondent herein, namely, The Block Development Officer, Village Panchayat, Madukkarai Village Panchayat, Madukkarai, Coimbatore, within a period of four weeks.

5. Recording the submission of the learned Special Government Pleader appearing for the respondents 1, 2, 4 and 5, the present Writ Petition is disposed of directing the respondents to dispose of the petitioner's representation dated 07.01.2022 within a period of four weeks from the date of receipt of a copy of this Order. It is made clear that before taking a final decision on the representation of the petitioner dated 07.01.2022, the 3rd respondent shall issue notice to the petitioner and the encroachers and after receipt of their replies followed by consideration, the final order shall be passed. No costs.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

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To

1. The District Collector,
Coimbatore District,
Coimbatore.
2. The Member-Secretary,
Local Planning Authority,
Dr.Nanjachappa Road,
Coimbatore-18.
3. The Block Development Officer,
Village Panchayat,
Madukkarai Village Panchayat,
Madukkari, Coimbatore.



4. The Tahsildar,
Madukkarai Village,
Coimbatore District,
Coimbatore.

5. The Inspector of Police,
Madukkarai Police Station,
Coimbatore.

+lcc to Mr.S.Saravanan, Advocate SR.No.17850
+lcc to the Government Pleader, SR.No.17798

W.P.No.5725 of 2022

BP (CO)
CB(19/04/2022)