



WEB COPY



W.P.No.18288 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2022

Coram

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR
and
THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

W.P.No.18288 of 2022

M.Kumar

... Petitioner

-Vs-

1. The District Collector,
District Collector Office,
Salem, Salem District

2.The Sub Collector,
District Collector Office
Salem, Salem District.

3.Sithaiyan

4.Govindarajan

5.Venkatesan

6.Senthilkumar

..Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to take appropriate action against the encroachers to remove the unauthorized obstruction made by the encroachers based on the representation dated 28.03.2022.



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For Petitioner : Mr.M.Venkadesh Kumar
For Respondents : Mrs.R.Anitha, Spl.GP – R1 & R2

ORDER

[Order of the Court was made by *D.KRISHNAKUMAR,J.*]

Seeking directions to 1st respondent to take appropriate action against the encroachers and to remove the unauthorized obstruction made by the encroachers based on the representation dated 28.03.2022, the present writ petition has been filed.

2. The learned counsel for the petitioner would submit that the petitioner is the owner of the agriculture land bearing survey no. 129/1, Thevettipatti Village, Kadayampatti Taluk, Salem District vide patta No. 1070, the petitioner has been cultivating in the above said land. The learned counsel for the petitioner would further submit that there is a road between the petitioner property and the poromboke land belongs to the Government, which is classified as 'Rock' in revenue records in survey no. 133/1. The petitioner and the villagers are using the said land for more than 80 years as



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ingress and egress to their agricultural lands.

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3. The learned counsel for the petitioner would further submit that the said land is illegally occupied by one Chithayan Vagaira and fully closed, therefore, the petitioner has sent representation dated 28.03.2002 to the 1st respondent to remove the said encroachment and restore the way. Since no action has been taken, the petitioner has filed the present writ petition for mandamus.

4. The Learned Special Government Pleader appearing for the respondents 1 & 2 would submit that the land claimed by the petitioner is situated in survey no.132, 133/1(D) is classified as 'Rock' in the revenue records and if the petitioner claims the said land, the petitioner has to seek remedy before the appropriate forum, hence the present writ petition filed by the petitioner under Article 226 of Constitution of India is liable to be dismissed.

5. Heard both sides and perused the materials available on record.



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6. In view of the aforesaid facts involved in the writ petition, we accept the submissions made by the learned Special Government Pleader that if the petitioner seek any right over the property, he should seek remedy before the appropriate forum. Therefore, without resorting to that, the directions sought for by the petitioner in the instant writ petition deserves to be dismissed in limine.

7. Insofar as allegation of encroachment of the aforesaid property is concerned, this Court cannot pass any orders and it is for the respondents to consider the representation and to take appropriate decision.

8. In fine, this Writ Petition stands dismissed. No costs.

(D.K.K, J.)

(T.V.T.S, J.)

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Index: Yes/No
Internet : Yes
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To
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