



W.P.No.16580 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2022

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

W.P.No.16580 of 2022

N.Senthilmurugan

.. Petitioner

Vs

1.The District Collector,
Collectorate,
Kallakurichi,
Kallakurichi District,
Tiruppur.

2.The Revenue Divisional Officer,
Kallakurichi,
Kallakurichi District.

3.The Revenue Tahsildar,
Kallakurichi,
Kallakurichi Taluk,
Kallakurichi District.

4.N.Palraj

5.J.Narayasamy

6.Saroja

7.V.Chandrasekar



W.P.No.16580 of 2022

8.Pandian

9.Bala

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing respondents 1 to 3 to remove the encroachments made by respondents 4 to 9 in and over the 'Nilaviyal cart track' bearing in S.F.Nos.346/7 of Veerasolapuram Village and S.F.Nos.40/3, 41/4B and 42/10 of Madam Village, Kallakurichi Taluk and District by considering the representations dated 27.08.2020, 11.03.2022 and 4.5.2022.

For the Petitioner : Ms.M.Adhishree

For the Respondents : Mr.P.Muthukumar
State Government Pleader
for respondent Nos.1 to 3

: Mr.K.Selvaraj
for respondent No.4

ORDER

(Order of the court was made by D.KRISHNAKUMAR,J.)

The petitioner, who is a resident of Mudianur Village, Kallakurichi Taluk and District and owns agricultural lands comprised in S.F.Nos.39/2B, 39/3 and 39/4 in Madam Village and in



W.P.No.16580 of 2022

S.F.Nos.350/8 and 350/9B of Veerasolapuram Village, has filed this writ petition seeking issuance of a writ of mandamus to direct respondents 1 to 3 to remove the encroachments made by respondents 4 to 9 over the "Nilaviyal cart track" in S.F.Nos.346/7 of Veerasolapuram Village and S.F.Nos.40/3, 41/4B and 42/10 of Madam Village, by considering his representations dated 27.08.2020, 11.03.2022 and 4.5.2022.

2. According to the petitioner, to have access to his lands from Madam to Veerasolapuram main road, his ancestors and other neighbouring land owners formed a "Nilaviyal Paathai" in S.F.Nos.346/7 of Veerasolapuram Village, which runs through S.F.Nos.40/3, 41/4B and 42/10 of Madam Village. The breadth of the cart track varies from 7.4 to 5.6 metres as per the revenue records and even the 'A' Register shows the cart track as "Pathai" (passage) and "Tharisu". The said Nilaviyal cart track has been in usage for more than 50 years.

3. It is alleged by the petitioner that respondents 4 to 9, who



W.P.No.16580 of 2022

are the owners of the lands lying adjacent to the "Nilaviyal cart track", have started obliterating the same under the guise of annexing it with their patta lands and, as a result, the width and breath of the cart track has been reduced to 10 feet over a period of years. Thus, respondents 4 to 9 have virtually encroached the cart track, which is a government property.

4. The further case of the petitioner is that as per Revenue Standing Order 26(15), even assuming that the cart track is running through the patta land, it should be treated as government land. As respondents 4 to 9 have frequently prevented the entry of the petitioner and the neighbouring land owners through the cart track, the petitioner sent a series of representations to respondents 1 to 3 seeking removal of the encroachment as well as restoration of the cart track. As no action was taken by the respondent authorities based on the said representations, the petitioner has filed this writ petition.

5. Mr.P.Muthukumar, learned State Government Pleader, on



W.P.No.16580 of 2022

instructions, submitted that as per the revenue records the land in S.F.Nos.346/7 of Veerasolapuram Village and S.F.Nos.40/3, 41/4B and 42/10 of Madam Village, is classified as cart track and, therefore, respondents 4 to 9 have no right to encroach the same.

6. Mr.K.Selvaraj, learned counsel for the fourth respondent, has fairly stated that the official respondents may be directed to survey the land in question in accordance with the revenue records and in case any encroachment is found by the official respondents, respondents 4 to 6 will voluntarily vacate the encroached portion of the land.

7. Learned counsel for the petitioner and learned State Government Pleader have no objection for the aforesaid course of action suggested by learned counsel for the fourth respondent.

8. In view of the above, we direct the Tahsildar and the Block Development Officer concerned to survey the land in question in accordance with the revenue records in the presence of the



W.P.No.16580 of 2022

petitioner and respondents 4 to 9 by fixing the date and time for such survey. If it is found that encroachments exist on the cart track, the respondents authorities shall take steps to remove the same and restore the cart track to its original position, of course, after harvesting of the sugarcane and cotton crops said to be grown by the private respondents. The aforesaid exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

The writ petition is disposed of accordingly. There will be no order as to costs.

(D.K.K., J.) (T.V.T.S., J.)
04.11.2022

Index : No
sasi



W.P.No.16580 of 2022

WEB COPY

To:

- 1.The District Collector,
Collectorate,
Kallakurichi,
Kallakurichi District,
Tiruppur.
- 2.The Revenue Divisional Officer,
Kallakurichi,
Kallakurichi District.
- 3.The Revenue Tahsildar,
Kallakurichi,
Kallakurichi Taluk,
Kallakurichi District.



WEB COPY



W.P.No.16580 of 2022

D.KRISHNAKUMAR,J.

AND

T.V.THAMILSELVI,J.

(sasi)

W.P.No.16580 of 2022

04.11.2022