



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.NO.20830 OF 2019

Murugavel

... Petitioner

vs

1. The District Collector,
Nagapattinam,
Nagapattinam District.
2. The District Revenue Officer,
Nagapattinam,
Nagapattinam District.
3. The Revenue Development Officer,
Nagapattinam,
Nagapattinam District.
4. The Tahsildar,
Nagapattinam,
Nagapattinam District.
5. Ayyasami
6. The Block Development Officer,
Nagapattinam,
Nagapattinam District - 609702.

... Respondents

[R6 impleaded as per Court Order dated 26.07.2019
in WMP No.20823 of 2017 in W.P.No.20830 of 2019 by CJ & MDJ]

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents 1 to 4 to remove the encroachment fence put up by the fifth respondent blocking the common street in Kurumbur Colony Street, Kottapadi, Earvadi Post, Nagapattinam Taluk, Nagapattinam District.



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For Petitioner : Mr.D.Saikumaran
For Respondents : Mr.A.Selvendran
1-4 & 6 Special Government Pleader
For Respondent 5 : Mr.K.Chandrasekaran

ORDER

[Order of this Court was delivered by T.RAJA, J.]

This Writ Petition has been filed for issuance of Writ of Mandamus directing the respondents 1 to 4 to remove the encroachment, namely, fence put up by the fifth respondent blocking the common street in Kurumbur Colony Street, Kottapadi, Earvadi Post, Nagapattinam Taluk, Nagapattinam District.

2.The case of the petitioner is that the common pathway in front of his house was widened by two meters by laying red soil road for one kilometre providing better connectivity to the main road in the year 1997-1998 under Jawahar Employment Scheme. Subsequently, in the year 1999-2000 one another project was introduced to lay cement road for one kilometre but for the unknown reasons, it was stopped within 240 meters on the influence of the mother of the fifth respondent who was the Panchayat President in the year 1996 - 2001 which caused inconvenience to other residents because the remaining 760 metres of road was left as mud road. Since the common pathway has been shrunk due to the encroachment made by the fifth respondent, a representation has been given to the respondents 1 to 4 on 17.05.2019 but no action has been taken. Therefore, the Writ Petition has been filed.

3.Learned Counsel for the petitioner submitted that after filing this Writ Petition, as against the order passed by the Tahsildar/fourth respondent herein, the fifth respondent filed appeal on 29.11.2019 under Section 10 of the Land Encroachment Act, 1905.

4.Mr.A.Selvendran, learned Special Government Pleader, on instructions, submitted that the appeal filed by the fifth respondent is pending and the same would be disposed of within four weeks time.

5.At this stage, learned Counsel for the fifth respondent submitted that till the appeal is disposed of, no action shall be taken against the fifth respondent.



6. Considering the fact that the fourth respondent has taken action on the representation made by the petitioner and passed orders, against which, the fifth respondent has filed appeal before the first respondent herein and the same is pending, the first respondent is directed to consider the appeal filed by the fifth respondent on 29.11.2019 and dispose of the same within a period of four weeks from the date of receipt of a copy of this order, after affording opportunity of hearing to the petitioner and the fifth respondent.

7. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

srm

To

1. The District Collector,
Nagapattinam,
Nagapattinam District.
2. The District Revenue Officer,
Nagapattinam,
Nagapattinam District.
3. The Revenue Development Officer,
Nagapattinam,
Nagapattinam District.
4. The Tahsildar,
Nagapattinam,
Nagapattinam District.
5. The Block Development Officer,
Nagapattinam,
Nagapattinam District - 609702.

+1cc to Mr.D.Saikumaran, Advocate, S.R.No.15789
+1cc to M/s.K.Chandrasekaran, Advocate, S.R.No.16003

W.P.No.20830 of 2019

SS (CO)
RLP (11/04/2022)