



W.P.No.28281 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.28281 of 2022

C.Subramani

.. Petitioner

Vs

1.The District Revenue Officer,
Erode District,
Erode.

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

3.C.Jaganathan

4.N.Eswaramoorthy

5.M.Rajendran

6.S.Mohanasundaram

7.Samiappan

8.S.Logasamy

9.S.Krishnamurthy

10.K.Samidurai

11.T.C.Gnanasekaran

12.A.M.Vijayanandan

13.Krishnamurthy

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the entire records relating to the order dated 12.10.2022 made in Na.Ka.11002/2022/Oo1 on the file of the first respondent confirming the order dated 05.02.2022 made in Na.Ka.5161/2021/A2 on the file of the second respondent and quash the same.

For the Petitioner : Mr.C.Munusamy

For the Respondents : Mr.J.Ravindran
Addl. Advocate General
assisted by
Mr.A.Selvendran
Spl. Government Pleader
for respondent Nos.1 and 2

ORDER

(Order of the Court was made by
the Hon'ble Acting Chief Justice)

Mr.C.Subramani, son of Chinnasamy Gounder, carrying agricultural activities in the lands situated in Survey Nos.296/5, 296/1, 2, 4, 296/6 and 296/7 of Villarasampatti Village, Erode Taluk and District, has filed this writ petition to quash the impugned order dated 12.10.2022 made in Na.Ka.No.11002/2022/Oo1 by the first



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respondent, confirming the order dated 5.2.2022 made in Na.Ka.No.5161/2021/A2 by the second respondent.

2. Learned counsel appearing for the petitioner submitted that the petitioner is carrying on agricultural activities in his lands and right from the beginning a cart-tract is available on the western side of his agricultural land which runs in south to north direction. The said cart-tract is being used by all the adjacent land owners for ingress and egress to their respective agricultural lands. While so, respondents 3 to 13, who are also using the cart-tract, had created an obstruction. As a result, the petitioner is unable to use the cart-tract/common pathway. Therefore, the petitioner was forced to file a civil suit, being O.S.No.337 of 2021, for permanent injunction before the Principal District Munsif Court, Erode, wherein summons have been served on the defendants, including the official respondents, and now the suit is posted for filing written statement on 02.11.2022.

3. Learned counsel further submitted that after the receipt of



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summons in the suit, respondents 3 to 13, instead of filing written statement in the suit, have filed a petition before the second respondent/Revenue Divisional Officer, Cuddalore and the second respondent has also disposed of the said petition holding that cart-track existed for more than 40 years.

4. It is the submission of learned counsel for the petitioner that when the petitioner specifically stated that he has filed a civil suit against the respondents for permanent injunction in respect of the pathway/cart-track in O.S.No.337 of 2021, the second respondent without considering the factual position came to a wrong conclusion that an encroachment has been made by the petitioner and the same is liable to be removed.

5. Learned counsel for the petitioner further submitted that an appeal has been filed before the first respondent challenging the order passed by the second respondent dated 5.2.2022 by specifically pleading and proving that the land in question is a pathway which is being used by the adjacent land owners and that



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there is no encroachment made by the petitioner. However, the first respondent, by the impugned order dated 12.10.2022, wrongly confirmed the order passed by the second respondent.

6. Learned counsel for the petitioner, while concluding his argument, would submit that when the petitioner is using the cart-tract/pathway for several decades without any hindrance, the impugned orders are liable to be set aside.

7. Opposing the prayer made by learned counsel for the petitioner, Mr.J.Ravindran, learned Additional Advocate General appearing for respondents 1 and 2, submitted that the official respondents have already initiated steps to remove all the encroachments made in the common pathway/cart-tract.

8. We have considered the rival submissions and also perused the materials available on record.

9. Since the petitioner is one of the encroachers, there is



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nothing wrong in removing the encroachment made by him in the pathway/cart-tract. A reading of the impugned order dated 12.10.2022 passed by the first respondent would clearly show that the petitioner himself admitted that he has encroached in the cart-tract/pathway.

10. At this juncture, learned counsel for the petitioner submitted that removal of encroachment should not begin from his side and it should be started from the other side. We do not find any justification in the argument raised by learned counsel for the petitioner, when the petitioner himself admitted that he is an encroacher.

11. Since an encroachment on the pathway/cart-tract, which is meant for public use, has been made by the encroachers, including the petitioner herein, we hereby direct the official respondents to remove all the encroachments made in the public pathway/cart-tract in question within a period of eight weeks from the date of receipt of this order and file a status report before this



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Court.

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12. With the aforesaid direction, the writ petition is dismissed. There will be no order as to costs. Consequently, W.M.P.No.27592 of 2022 is closed.

List for reporting compliance after eight weeks.

(T.R., ACJ.) (D.K.K., J.)
26.10.2022

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To

- 1.The District Revenue Officer,
Erode District,
Erode.
- 2.The Revenue Divisional Officer,
Erode District,
Erode.



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T.RAJA, ACJ.
AND
D.KRISHNAKUMAR, J.

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26.10.2022