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W.P.No. 28814 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2022

CORAM

**THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY**

W.P.No. 28814 of 2022

T. Vijaya

... Petitioner

Vs.

1. The District Collector
Namakkal District
2. The Thasildhar
Paramathi – Velur Taluk
Namakkal District
3. The Revenue Inspector
Paramathi – Velur Taluk
Namakkal District

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Mandamus, directing the third respondent to remove the encroachment in Survey No. 112/7 as mentioned in the order dated 08.11.2021 by the second respondent by removing the fencing installed by the encroacher on either side of the common bullock cart pathway.

For Petitioner : Mr. B.K. Girish Neelakantan

For Respondents : Mr. A. Selvendran
Special Government Pleader



W.P.No. 28814 of 2022

ORDER

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

The prayer sought for in the writ petition is to direct the third respondent to remove the encroachment in Survey No. 112/7 as mentioned in the order dated 08.11.2021 by the second respondent by removing the fencing installed by the encroacher on either side of the common bullock cart pathway.

2. The case of the writ petitioner is that he has purchased an agricultural land in Survey No. 112/5A in Kodachery Village, Paramathi, Namakkal district through a sale deed dated 06.02.2019 an extent of 22.20 cents registered as Document No. 329 of 2019 in the Sub-Registrar Office, Paramathi. The said agricultural land is about 10 Kilometers away from his residence.

3. According to the petitioner, the ingress and egress to his property was through a common cart road in Survey No. 112/7, which is situated adjacent to his property. The revenue records also show the existence of a common bullock cart way through which not only his property but also the other lands situated around his property had ingress and egress. Subsequently, the revenue

<https://www.mhc-ta.gov.in/judis> records were mutated in his name for his property and fencing was laid around



W.P.No. 28814 of 2022

the property by him. Thereafter, when he visited the property to start cultivation, to his shock and surprise, the above said common pathway in Survey No. 112/7 was occupied by raising fences by unknown anti-social elements of that locality. Hence, he made complaint to the first respondent to remove the encroachment of the common cart road. Since, no action was taken, on 25.10.2021, he made another representation citing his previous complaint dated 20.09.2021 and to take immediate action against the encroachers. Subsequently, the second respondent through a letter dated 08.11.2021, confirmed that the common pathway was under illegal encroachment and the third respondent was directed by the second respondent to remove the encroachment in Survey No. 112/7. Since no action was forthcoming, the petitioner has filed the present writ petition.

4. According to the learned counsel for the petitioner, the petitioner is not aware of the encroachers. Therefore, the encroachers have not been impleaded as a party in the present writ petition.

5. The petitioner has simply filed this writ petition before this Court to direct the third respondent be taken action to remove the encroachment in Survey No. 112/7 as mentioned in the order dated 08.11.2021 by the second



W.P.No. 28814 of 2022

respondent by removing the fencing installed by the encroacher on either side of the common bullock cart pathway. So it is clear that the petitioner has admitted that it is either side of the cart track, the aforesaid fence has been erected.

6. It is seen from the photographs enclosed in the typed set of papers that the said fence has been erected by the private parties but he has not given any particulars of the aforesaid persons who would have erected by encroaching the property. It is further seen from the photographs that there is no obstruction to the cart tract and petitioner did not place any document to show that there is any obstruction to the cart track. Therefore, the petitioner has not properly explained in the affidavit to prove his contention. Through RTI, the petitioner has also received a communication, wherein it is stated that the said particulars cannot be disclosed. The petitioner has also made a representation for taking action against the encroacher.

7. On perusal of the entire affidavit except the averments that the aforesaid common pathway in Survey No. 112/7 was occupied by raising fences by unknown anti-social elements of that locality, no material has been produced before this Court. In the absence of any evidence or records



W.P.No. 28814 of 2022

produced before this court and the particulars of the encroachers, this court is not inclined to issue any direction to the authorities concerned. If aggrieved, the petitioner has to approach the authorities concerned seeking for the particulars. The writ petition stands dismissed. No costs.

(D.K.K., J.) (K.R., J.)

25.11.2022

Index : Yes / No
Internet : Yes/ No
mrn

To

1. The District Collector
Namakkal District
2. The Thasildhar
Paramathi – Velur Taluk
Namakkal District
3. The Revenue Inspector
Paramathi – Velur Taluk
Nammakkal District



WEB COPY



W.P.No. 28814 of 2022

D.KRISHNAKUMAR, J.
and
KRISHNAN RAMASAMY, J.

(mrn)

W.P.No. 28814 of 2022

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