



W.P.(MD)No.1038 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 12.07.2022

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P(MD)No.1038 of 2022

S.Karupaiah Pillai

... Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Tahsildhar,
Vedasandur Taluk,
Dindigul District.

3.The Executive Officer,
Ayyalur Town Panchayat,
Dindigul District.

4.Vijayalakshmi

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 to 3 to remove the encroachments made by the 4th respondent in respect of survey Nos.1785/17 and 1782/40 of the Ayyalur Village, Vedasandur Taluk, Dindigul to restore the same as



W.P.(MD)No.1038 of 2022

common pathway based on the petitioner's representation, dated 28.12.2019 and to pass final orders on merit and in accordance with law within a reasonable time as may be fixed by this Court.

For Petitioners

:Mr.N.Marimuthu

For R1 to R3

:Mr.J.Ashok

Additional Government Pleader

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

This Writ Petition is filed for issuance of a Writ of Mandamus to direct the respondents 1 to 3 to remove the encroachments made by the fourth respondent in respect of survey Nos.1785/17 and 1782/40 of the Ayyalur Village, Vedasandur Taluk, Dindigul District, to restore the same as common pathway, based on the petitioner's representation, dated 28.12.2019 and to pass final orders on merit and in accordance with law within a reasonable time as stipulated by this Court.



W.P.(MD)No.1038 of 2022

2.Having regard to the nature of orders proposed to be passed by this Court, notice to the fourth respondent is dispensed with.

3.It is the case of the petitioner that the fourth respondent had encroached the common pathway in survey Nos.1785/17 and 1782/40 of the Ayyalur Village, Vedasandur Taluk, Dindigul.

4.The grievance of the writ petitioner is that the fourth respondent has constructed a house encroaching into the public street.

5.The learned Additional Government Pleader appearing for the respondents, on instructions, submitted that the third respondent has requested the Tahsildar, Dindigul District, to conduct a survey and report.



W.P.(MD)No.1038 of 2022

6.This Court has repeatedly held that before removing the encroachment, a survey has to be conducted, after issuing notice to the encroachers or anyone interested. Therefore, this Court disposed of the writ petition with the following directions:

(i)The second respondent is directed to conduct a survey after issuing notice to the fourth respondent or anyone, who has encroached the public street or public premises.

(iii). After conducting the survey either in the presence of the fourth respondent or after issuing notice to the fourth respondent, the second respondent shall submit a report to the third respondent for appropriate action. In case, the third respondent is unable to complete the process of eviction within a reasonable time, the second respondent may initiate proceedings under the provisions of Tamil Nadu Land Encroachment Act, 1905, and see that the encroachment if any, shall be removed within a period of twelve[12] weeks from the date of receipt of request from the third respondent.



W.P.(MD)No.1038 of 2022

(iv).If there is a dispute with regard to the width of road, it is open to the petitioner to approach the Civil Court to get appropriate relief and no coercive steps can be taken on the basis of mere statement by the petitioner without following due process of law.

No costs.

[S.S.S.R., J.] [S.S.Y., J.]
12.07.2022

Index : Yes / No

Internet:Yes

Tmg/Ns

To

- 1.The District Collector,
Dindigul District,
Dindigul.
- 2.The Tahsildhar,
Vedasandur Taluk,
Dindigul District.
- 3.The Executive Officer,
Ayyalur Town Panchayat,
Dindigul District.



WEB COPY



W.P.(MD)No.1038 of 2022

S.S.SUNDAR, J.

and

S.SRIMATHY, J.

Tmg/Ns

W.P(MD)No.1038 of 2022

12.07.2022