



W.P.(MD)No.6953 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 26.10.2022

CORAM

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**
and
THE HONOURABLE MR.JUSTICE **J.SATHYA NARAYANA PRASAD**

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S.Sekar

... Petitioner

Vs.

1. The District Collector,
Madurai District , Madurai.

2. Revenue Divisional Officer,
Madurai North Taluk, Madurai District.

3. The Block Development Officer,
Paravai Union Office, Paravai,
Madurai District.

4. The Tahsildar,
Madurai North Taluk, Madurai District.

5. Executive Officer,
Paravai Municipality (Special Grade),
Paravai, Madurai District.

6. Erulandi

7. Indirani

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India, praying



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to issue a Writ of Mandamus, directing the respondents 1 to 5 to consider the petitioner's representation dated 16.02.2021 to remove the encroachment in the Panchayath Union Road in Kambam East Street bearing Survey Nos.64/6 and 64/8 and to lay road in the said street within a stipulated time as may be fixed by this Honble Court.

For Petitioner	: Mr.A.S.Krishnan
For Respondents 1 to 5	: Mr.P.Thilak Kumar Government Advocate
For Respondents 6 and 7	: Mr.M.Ponnaiah

ORDER

(Order of the Court was made by **R.MAHADEVAN, J.**)

The petitioner has come forward with this writ petition praying to issue a Writ of Mandamus, directing the respondents 1 to 5 to remove the encroachment in the Panchayath Union Road in Kambam East Street in Survey Nos.64/6 and 64/8 and to lay a road in the said street by considering his representation dated 16.02.2021, within a time frame.

2. Heard Mr.A.S.Krishnan, learned counsel for the petitioner, Mr.P.Thilak Kumar, learned Government Pleader appearing for the respondents 1 to 5 and Mr.M.Ponnaiah, learned counsel appearing for the respondents 6 and 7.



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3. Denying the averments in the writ petition, the fifth respondent has filed counter-affidavit and in para 3 of the counter, the fifth respondent specifically averred as follows:-

“3. With regard to the averment of the Petitioner herein in paragraphs 2 and 3 of the affidavit, it is submitted that the Petitioner herein has stated that on getting approval from the Local Body in the year 1981, his predecessor to the title over land measuring 1.62 acres comprising in S.No. 27/6 at Paravai North Taluk, 25 plots were formed. Notation changes in the revenue records were effected by culling out S.Nos. 64/6 and 64/8 and that the Petitioner purchased an extent of 1458 sq.ft. in Plot No.25 in the year 1997 and that on getting building plan approval, he constructed a house in the land and that on the eastern side, there was 20' road in S.No. 64/6, 64/8 having connectivity to Paraval - Athalai Main Road and that all of a sudden 6th and 7th Respondent encroached the said road by constructing houses. As evident from the averments in the affidavit, there is no public pathway connecting houses and more over, the developers would not have obtained approval of the lay out and had they obtained approval, the places earmarked for public usage



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would have been donated to the Local Body. Hence there is no possibility of the authorities interfering in the issues of purely civil nature. The Petitioner herein has every liberty to approach the competent civil court for restoring the easementary or dominant heritage right enjoyed by them in accordance with the documentary proofs.”

4. In view of the aforesaid specific counter averments, this Writ Petition is disposed of, granting liberty to the petitioner to approach the competent civil forum for redressal of his grievance. No costs.

[R.M.D., J.] [J.S.N.P., J.]
26.10.2022

Internet : Yes / No
Index : Yes / No
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