



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2022

CORAM

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

W.P(MD)No.10525 of 2022

and

W.M.P(MD)No.7650 of 2022

V.Jegajothi

...Petitioner
Vs.

1.The District Collector,
Collectorate,
Kokkirakulam,
Tirunelveli - 627 009.

2.The Tahsildar,
Thisaiyanvilai,
Thisaiyanivilai Taluk,
Tirunelveli District.

3.The Executive Officer,
Thisaiyanvilai Town Panchayat,
Thisaiyanvilai,
Tirunelveli District.

4.Anti Land Grabbing Special Cell,
Rep. by its Deputy Superintendent of Police,
Tirunelveli Region,
Tirunelveli,
Tirunelveli District.

5.V.Paramasiva Nadar

6.P.Velmurugan

7.P.Subramanian

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 4 to remove the encroachments as made by the respondents 5 to 7 in the property of common pathway bearing Survey Nos.103/1A3B, 103/2A2 and 103/2B1 leading in the eastern side from the main road as Thisaiyanvilai to Ettamozhi and also in the petitioner's agricultural property bearing Survey No.103/2A1, Old No.103/2A situated at Keeraikaranthattu, Thisaiyanvilai Village, Thisaiyanvilai Taluk, Tirunelveli District forthwith.



For Petitioner	:	Mr.S.Palani Velayutham
For R-1 to R-4	:	Mr.T.Amjad Khan, Government Advocate
For R-5 & R-6	:	Mr.B.Ganagaraj
For R-7	:	Mr.V.Balasubramanian

O R D E R

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

This writ petition is filed seeking for issuance of a Writ of Mandamus, directing the respondents 1 to 4, to remove the encroachments made by the respondents 5 to 7 in the common pathway bearing Survey Nos.103/1A3B, 103/2A2 and 103/2B1, leading in the eastern side from the main road as Thisaiyanvilai to Ettamozhi and also the adjoining agricultural property bearing Survey No.103/2A1, Old No.103/2A, situated at Keeraikaranthattu, Thisaiyanvilai Village, Thisaiyanvilai Taluk, Tirunelveli District.

2. Alleging that the respondents 5 to 7, who are close relatives to the petitioner, have encroached the land, which is classified as common pathway, the above writ petition is filed.

3. The learned Government Advocate on instructions submitted that the official respondents have not received any complaint from any quarter and no encroachment in any public pathway or public property in that particular village is noticed by them.

4. The learned counsel appearing for the contesting respondents namely the respondents 5 to 7, have also serious issues stating that the petitioner has approached this Court only to harass the respondents 5 to 7. It is further stated that the petitioner is not residing in the village or the place which is shown as petitioner's address for communication. The petitioner who is residing in Pudukkottai, has come forward with the writ petition only as a counter-blast to the partition suit filed by the seventh respondent in O.S.No.166 of 2012 before the District Munsif Court, Valliyur. Now, the same is pending in O.S.No.21 of 2019 on the file of the District Munsif Court, Radhapuram.

5. From the reading of the plaint averments, this Court is of the view that the petitioner has approached this Court without any bonafides and only to harass his own relatives for filing a suit for partition against her, she has filed this writ petition.

6. The learned counsel appearing for the respondents 5 to 7, submitted that the petitioner has made representations out of grudges against the contesting respondents and that she is not entitled to any relief in the writ petition filed by invoking the



extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

7. After perusal of the records, this Court is unable to find any positive evidence or material to show that the private respondents have encroached into any portion of the public or communal or poramboke land. The petitioner has disputes and issues with her relatives with regard to specific properties including some of the properties, which are the subject matter of his representation. Even if the petitioner is entitled to have access through the public land, she can enforce the said right by approaching the civil Court.

8. This Court is unable to recognise the petitioner as a lawful owner or co-owner of the entire property. In this peculiar circumstances, this Court is unable to entertain the writ petition. Since the intention and the object behind this litigation lacks bonafides and the petitioner has some personal grudges against the contesting respondents, this Court is unable to exercise its extraordinary jurisdiction under Article 226 of the Constitution of India, particularly when the petitioner has alternative remedy of moving the civil Court, as against the public or the individual as the case may be, either as a member of the public or as a person who has independent right in respect of the portion in which he is in possession.

9. In the result, this writ petition is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PM

To

1.The District Collector,
Collectorate,
Kokkirakulam,
Tirunelveli - 627 009.

2.The Tahsildar,
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Thisaiyanivilai Taluk,
Tiruelveli District.



3.The Executive Officer,
Thisaiyanvilai Town Panchayat,
Thisaiyanvilai,
Tirunelveli District.

4.The Deputy Superintendent of Police,
Anti Land Grabbing Special Cell,
Tirunelveli Region,
Tirunelveli,
Tirunelveli District.

+1 CC to M/s.V.BALA SUNRAMANIAN, Advocate (SR-25236[F]
dated 13/06/2022)

+1 CC to M/s.S.PALANIVELAYUTHAM, Advocate (SR-25350[F]
dated 13/06/2022)

+1 CC to M/s.SPL GP (SR-25464[F] dated 13/06/2022)

ORDER MADE IN
W.P (MD) No.10525 of 2022
10.06.2022

NSN (CO)
GC (17.06.2022) 4P 8C