



W.P(MD)No.12906 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2022

CORAM:

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

**W.P(MD)No.12906 of 2019
and
W.M.P(MD)No.9606 of 2019**

Udhayasuriyan

... Petitioner

VS.

1.The District Collector,
Collectorate,
Madurai,
Madurai District.

2.The Revenue Divisional Officer,
Usilampatti,
Madurai District.

3.The Tahsildar,
Thirumangalam Taluk,
Thirumangalam.

4.The Inspector of Police,
Taluk Police Station,
Thirumangalam.

5.Murugan

... Respondents



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WEB C **PRAYER :** Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to evict the encroachment of pathway in Survey No.88/11 done by the fifth respondent in the Western side of his house situated in Survey No.88/10 of Sithalai Revenue Village of Thirumangalam Taluk.

For Petitioner : Mr.K.K.Samy
For RR 1 to 4 : Mr.S.P.Maharajan
Special Government Pleader
For R – 5 : Mr.T.Senthil Kumar
Additional Public Prosecutor

ORDER

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

The prayer made in this Writ Petition is to issue a Writ of Mandamus, directing the respondents to evict the encroachment of pathway in Survey No.88/11 done by the fifth respondent in the Western side of his house situated in Survey No.88/10 of Sithalai Revenue Village of Thirumangalam Taluk.

2.Seeking removal of encroachment made by the fifth respondent, though petitioner made a representation to the official respondents on



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06.05.2019, the same has not been considered till date. Hence, the petitioner has filed the present Writ Petition.

3. When the matter came up for hearing on 20.10.2022, this Court appointed an Advocate Commissioner to find out whether the place in question is a private patta land or public pathway.

3. Pursuant to the same, the Advocate Commissioner has filed his report, dated 14.11.2022, stating that the place in question is a private land owned by the petitioner.

4. On the other hand, the learned counsel appearing for the petitioner submitted that based on the earlier FMB sketch, survey was conducted in the presence of the Advocate Commissioner and if a proper survey is conducted, the exact boundaries would be revealed.

5. In view of the above, the authorities concerned are directed to conduct a survey in the place in question, after issuing notice to the petitioner and all other parties concerned within a period of two weeks from the date of receipt of a copy of this order. If there is any encroachment as



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claimed by the petitioner, after issuing notice and conducting survey in the presence of the petitioner and all other parties concerned, the authorities concerned shall take necessary action for removal of such encroachment, after affording sufficient opportunity of personal hearing to all the parties concerned and by following due process of law, within a period of eight weeks thereafter.

6. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

[R.M.D.,J.] & [J.S.N.P.,J.]
15.11.2022

Index : Yes / No
Internet : Yes
ps

To

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R.MAHADEVAN,J.

and

J.SATHYA NARAYANA PRASAD,J.

ps

**ORDER MADE IN
W.P(MD)No.12906 of 2019**

15.11.2022