



W.P(MD)No.15101 of 2019

WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 18.11.2022

CORAM:

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

W.P(MD)No.15101 of 2019

P.Subramanian

... Petitioner

VS.

1. The District Collector,
Karur District,
Karur.

2. The Tahsildar,
Kadavur Taluk,
Kadavur
Karur District.

3. Vijayaraghavan

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to take steps to prevent the encroachment made by the 3rd respondent and to remove the encroached portion in the public pathway by considering the petitioner's representation dated 17.06.2019 within the period stipulated by this Court.

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For Petitioner : Mr.A.Haja Mohideen
For R1 & R2 : Mr.S.P.Maharajan
Special Government Pleader
For R3 : No appearance

ORDER

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

The prayer in the writ petition is for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to take steps to prevent the encroachment made by the 3rd respondent and to remove the encroached portion in the public pathway, by considering the petitioner's representation dated 17.06.2019 within a time frame.

2. Learned counsel for the petitioner submitted that there is a public pathway in S.No.1992 running across from Surumanpatti towards Rajapatti from north to south and the said survey number was sub-divided into S.Nos.1992/2, 1992/3, 1992/4 and 1992/5 and the authorities attempted to assign pattas in respect of the said lands and therefore, the petitioner made a representation in this regard to the 1st respondent requesting the authorities to classify S.Nos.1992/2,

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1992/3, 1992/4 and 1992/5 as pathway in the revenue records as well as in the village map. Pursuant thereto, the 1st respondent vide proceedings O.Mu.Aa1/2737/2011 dated 23.02.2011, directed the 2nd respondent to take necessary action on the petitioner's representation. Since the 2nd respondent did not take any action, the petitioner filed W.P(MD)No.14944 of 2012 for a Mandamus to the authorities concerned to record the existence of the east-west pathway in S.No.1992 in the revenue records and village map as per the aforesaid proceedings of the 1st respondent dated 23.02.2011. Despite this Court by order dated 05.07.2017 directed the 2nd respondent to consider and dispose of the petitioner dated 04.02.2011 within a period of three months, the 2nd respondent did not pass any order. In the meanwhile, the 3rd respondent made an encroachment in the said public pathway. Hence, the petitioner made a representation dated 17.06.2019 to the respondents and finding no heed to it was paid, he has filed this writ petition.



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3. Learned Special Government Pleader appearing for the respondents 1 and 2 submitted that alleging non compliance of the order made in W.P(MD)No.14944 of 2012 dated 05.07.2017, the petitioner filed Contempt Petition No.377 of 2018, wherein, this Court by order dated 06.12.2018 has passed the following order:-

"The status report filed by the Tahsildar, Kadavur Taluk, Karur District, indicate that the request made by the petitioner for change of the land in Survey No.1992/2, 1992/3, 1992/4 and 1992/5 as public pathway has been rejected and the order was communicated to him on 17.04.2018.

2. In view of the said decision, the Contempt Petition is closed. It is open to the petitioner to pursue further action, if he is still aggrieved."

4. Though this Court had directed the petitioner to challenge the order dated 17.04.2018, without doing so, the petitioner has filed this writ petition suppressing the order passed in the contempt petition. He further submitted that the spot inspection conducted by the Village Administrative Officer in the public pathway in question



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revealed no encroachment and the S.Nos.1992/3, 1992/4 and 1992/5 are classified as Sarkar Manai (Natham) and in respect of the said survey numbers, house site pattas have been issued to private persons.

5. At this juncture, learned counsel for the petitioner submitted that it is suffice if a direction is issued to the respondents 1 and 2 to consider and dispose of the petitioner's representation dated 17.06.2019 within a time frame.

6. Learned Special Government Pleader appearing for the respondents 1 and 2 submitted that the respondents 1 and 2 will consider and dispose of the petitioner's representation dated 17.06.2019 on merits and in accordance with law and appropriate action will be taken for removal of encroachment, if any, in the place in question by due process of law within a time frame.



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7. Recording the above submissions, the respondents 1 and 2 are directed to consider and dispose of the representation of the petitioner dated 17.06.2019 on merits and in accordance with law. If there is any encroachment in the place in question, after issuing notice and conducting survey in the presence of all the parties concerned, the authorities concerned shall take necessary action for removal of encroachments, after affording sufficient opportunity to all the parties concerned and by following due process of law. Such an exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above direction, the Writ Petition is disposed of.

No costs.

Index : Yes / No
Internet : Yes
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[R.M.D.,J.] & [J.S.N.P.,J.]
18.11.2022



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- To
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Karur District,
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 2. The Tahsildar,
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R.MAHADEVAN,J.
and
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ORDER MADE IN
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DATED : 18.11.2022