



W.P(MD)No.13358 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2022

CORAM

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

**W.P(MD)No.13358 of 2022
and
W.M.P(MD).No.9477 of 2022**

Ganapathythai

... Petitioner

Vs.

1.The District Collector,
Tenkasi District,
Tenkasi.

2.The Thasildar,
Sivagiri Taluk,
Tenkasi District.

3.Parthiban

4.Thirumalaisamy

5.Murugaiah

6.Senthur Pandian

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in Na.Ka.A4/1419/20222 dated 07.03.2022 and quash the same,



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consequently direct the second respondent to remove the encroachments made by the third and fourth respondents by way of putting up fencing in Cart Track situated in Survey No.610/58 of Nelkattum Seval Village, Sivagiri Taluk, Tenkasi District.

For Petitioner : Mr.V.Sasikumar
For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader
for R1 and R2

ORDER

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

Heard Mr.V.Sasikumar, learned counsel for the petitioner and Mr.N.Satheesh Kumar, learned Additional Government Pleader for the respondent Nos.1 and 2

2. This Writ Petition has been filed for issuance of a writ of Certiorarified Mandamus, calling for the records relating to the impugned order in Na.Ka.A4/1419/20222 dated 07.03.2022 and quash the same and direct the second respondent to remove the encroachments made by the respondents 3 and 4 by way of putting up fencing in Cart Track situated in Survey No.610/58 of Nelkattum Seval Village, Sivagiri



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Taluk, Tenkasi District.

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3. From the impugned order, it is seen that the Zonal Deputy Tahsildar, Sivagiri, has refused to give information with regard to certain documents sought by the petitioner. Though the impugned order does not reveal the nature of the application filed by the petitioner, the representation submitted by the petitioner on 10.01.2022 to the District Collector gives an indication that the petitioner has originally filed an application for survey and measurement of the land under the pretext that the said survey did not disclose the petitioner's long enjoyment of the property which runs through private individuals. It is also stated in the representation of the petitioner that the respondents 3, 4 and 6 have restrained the Surveyor from discharging his official duty. Pursuant to the said incident, the petitioner has made a representation to the District Collector on 10.01.2022, requesting them to take severe action against the respondents 3, 4 and 6, who have made an attempt to grab the petitioner's land.

4. From the materials available on record, it is seen that the petitioner has given a representation to the District Collector to remove



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the encroachment which is stated to have been made by the private individuals. Though the petitioner claims that she has been using a cart track in Survey No.610/58, she is unable to produce the documents to show that the property in respect of which the petitioner claims pathway right, is the Government poramboke land or vests with the local body. Unless the petitioner is able to show by necessary document that the property is a poramboke land, she cannot request the Officials to remove the encroachment. Hence, this Court cannot direct the second respondent to remove the encroachments made by the private individuals. It is open to the petitioner to approach the civil Court to establish her title or any other right either in her individual capacity or in her capacity as a representative of the villagers for declaration as to the character of the disputed property and for consequential relief.

5. With the above liberty, this Writ Petition is dismissed. No costs.

Connected miscellaneous petition is also dismissed.

[S.S.S.R., J.] [S.S.Y., J.]
28.06.2022

Index :Yes/No
Internet :Yes
ssb



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S.S.SUNDAR, J.
AND
S.SRIMATHY, J.

ssb

ORDER MADE IN
W.P(MD)No.13358 of 2022
and
W.M.P(MD).No.9477 of 2022

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