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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2022

CORAM

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

W.P(MD)No.14181 of 2022

C.Thirumal Nambi ... Petitioner

Vs.

1.The District Collector,
Tirunelveli, Tirunelveli District.

2.The Tahsildar,
Radhapuram Taluk, Tirunelveli District.

3.The Executive Officer,
Special Grade Town Panchayat,
Valliyoor, Tirunelveli District.

4.The Village Administrative Officer,
Valliyoor, Tirunelveli District.

5.K.Subbiah
6.N.Kannan ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 to 4 to remove the encroachment made by the respondents 5 and 6 in public pathway comprised in S.No.2181/1 situated at Vadakku Valliyoor Part-2, Radhapuram Taluk, Tiruelveli District based on the communication of the third respondent, dated 22.04.2022 and further to direct the second respondent to implement the same forthwith.

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For Petitioner :Mr.S.Balaji
For R1, R2 and R4:Mr.N.Satheeh Kumar
Additional Government Pleader
For R3 :Mr.H.Arumugam

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ORDER

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

This Writ Petition is filed for issuance of a Writ of Mandamus to direct the respondents 1 to 4 to remove the encroachment made by the respondents 5 and 6 in the public pathway comprised in S.No.2181/1 situated at Vadakku Valliyoor Part-2, Radhapuram Taluk, Tiruelveli District.

2.Heard Mr.S.Balaji, learned Counsel for the petitioner, Mr.N.Satheesh Kumar, learned Additional Government Pleader, who takes notice on behalf of R1, R2 and R4 and Mr.H.Arumugam, learned Counsel, who takes notice for the third respondent. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The petitioner has stated that in the common pathway, which is used to access a temple by the general public, the respondents 5 and 6

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have encroached the portion upto the drainage channel, which runs along with the public pathway. The petitioner further stated that the obstruction caused by the private respondents is causing nuisance to the public. However, in the affidavit filed in support of this Writ Petition, the petitioner has not stated any personal injury. The petitioner has filed this Writ Petition as if he files this in public interest.

4.Having regard to the averments made in the affidavit filed in support of this Writ Petition, this Court is not inclined to entertain this Writ Petition, as the petitioner has no *locus standi* to maintain this Writ Petition. Hence, this Writ Petition is dismissed. However, we direct the Executive Officer, namely, the third respondent to initiate appropriate proceedings for removal of encroachment by resorting to the provisions of the Tamil Nadu District Municipalities Act, 1920, dealing with removal of encroachment.

5.Even though we are not expressing any opinion with regard to the actual encroachment made by the private respondents, it is for the second respondent to conduct a survey after issuing notice to the private respondents as well as any other interested persons. After drawing a report as to the manner and the extent of encroachment in the public pathway, the second respondent, shall send a copy of his report to the

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third respondent, who in turn is directed to take action under Section 182 of the Tamil Nadu District Municipalities Act, 1920.

5.1.The second repsondent shall conduct survey and complete the entire proceedings after issuing notice to the private respondents as well as to the interested persons within a period of three weeks from the date of receipt of a copy of this order and communicate his report to the local body, namely, the third respondent, within a period of two weeks thereafter.

5.2.On receipt of such report from the second respondent, the third respondent is directed to take appropriate action, in case, any encroachment is found in the public pathway or any other property, which vests with the local body. The entire exercise shall be completed by the third respondent within a period of six weeks from the date of receipt of a copy of report from the second respondent. No cost.

[S.S.S.R., J.] [S.S.Y., J.]
05.07.2022

Index : Yes / No

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