



W.P.(MD)No.14328 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.07.2022

CORAM:

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

W.P(MD)No.14328 of 2022

Arumugam

... Petitioner

Vs.

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Thasildar,
Ettaiyapuram Taluk,
Ettaiyapuram.

3.The Village Administrative Officer,
Vemboor Village,
Vemboor Post,
Ettaiyapuram Taluk,
Thoothukudi District.

4.Subburam

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to remove the encroachment made by the 4th respondent in the cart track in S.No.155/8B at Vemboor Village, Ettaiyapuram Taluk, Thoothukudi District by considering petitioner's representation dated 26.05.2022.



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For Petitioner : Mr.T.Balaji

For Respondents 1 to 3 : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

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

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to remove the encroachment made by the 4th respondent in the cart track in S.No. 155/8B at Vemboor Village, Ettaiyapuram Taluk, Thoothukudi District, based on the petitioner's representation dated 26.05.2022.

2. Heard Mr.T.Balaji, learned counsel for the petitioner and Mr.N.Satheesh Kumar, learned Additional Government Pleader for the respondents 1 to 3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. Having regard to the order proposed to be passed in this writ petition, notice to the fourth respondent is dispensed with.



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4. It is the specific case of the petitioner that the property in S.No.155/8B at Vemboor Village, Ettaiyapuram Taluk, Thoothukudi District, is a cart track and that as a resident of the village the petitioner and others are using the cart track for a long time. Complaining that the fourth respondent has encroached upon the cart track by putting up fence and metal sheet, thereby preventing the petitioner and others to have access through the cart track, the petitioner has filed this Writ Petition.

5. Learned Additional Government Pleader appearing for the respondents 1 to 4 on instructions submitted that the property in S.No.155/8B at Vemboor Village, Ettaiyapuram Taluk, is a patta land.

6. The settlement A – Register, prepared after UDR, clearly indicates that S.No.155/8B is a patta land. Even assuming that the petitioner is using the cart track in the patta land of an individual, it may be permissible to establish the right of easement before the Civil Court and the petitioner cannot compel the Revenue Department to lay a road or cart track in a private patta land and seek the relief before this Court.



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7. In view of the above, the Writ Petition is dismissed.

However, the petitioner is at liberty to approach the Civil Court, in case he wants to establish his right under the Common Law. No costs.

[S.S.S.R., J.] [S.S.Y., J.]
06.07.2022

Index : Yes / No

sj

To

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Ettaiyapuram.
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Thoothukudi District.



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S.S.SUNDAR, J.

and

S.SRIMATHY, J.

sj

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