



W.P(MD)No.16650 of 2021

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

**DATED : 08.12.2022**

**CORAM:**

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR  
and  
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.16650 of 2021  
and W.M.P(MD)No.13510 of 2021**

P.Ravichandran

... Petitioner

VS.

1.The Tahsildar,  
Gujiliyamparai Taluk,  
Dindigul District.

2.The Executive Officer,  
Palayam Town Panchayat,  
Gujiliyamparai Taluk,  
Dindigul District.

3.Perumal Raja

4.N.Subramani

5.Veerachamy

... Respondents

(RR 4 & 5 were impleaded vide order dated 24.11.2022  
in W.M.P(MD)No.14408 of 2022)

**PRAYER :** Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Ceritorari, calling for the records pertaining to the impugned order passed by the second respondent by his proceedings in Na.Ka.No.237/A1/2021, dated 31.08.2021 and quash the same.

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For Petitioner : Mr.J.Lawrance  
For RR 1 & 2 : Mr.M.Sarangan  
Additional Government Pleader  
For R – 3 : Mr.K.R.Badurus Zaman  
For RR 4 & 5 : Mr.M.S.Suresh Kumar

**ORDER**

**(Order of the Court was made by D. KRISHNAKUMAR, J.)**

The petitioner has filed the present Writ Petition for issuance of Writ of Certiorari, to quash the impugned order passed by the second respondent by proceedings in Na.Ka.No.237/A1/2021, dated 31.08.2021.

2.According to the petitioner, he is residing in the house situated in Survey No.1473/21 and he has been using the house property in Survey No.1473/25 for his domestic and other purposes. The third respondent is his neighbour and he has been residing in the house property comprising Survey No.1473/22, which is situated on the Southern side of his house property in Survey No.1473/21. To reach his house properties, there is an existing lane of 11 feet breadth branches from Manapparai Main Road



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ie., East West Main Road. The said lane is 70 feet in length and the said lane stopped at his house property in Survey No.1473/25. On the Western side of the said lane, the house property in Survey No.1473/21 and the third respondent's house property in Survey No.1473/22 are situated. Further, towards the Western side of the house property comprising Survey No.1473/50, lane is situated.

3.Further, according to the petitioner, he has got access to the abovesaid house properties through the said lane and using the same as a pathway from the date of inception. Insofar as the third respondent is concerned, he got access to his house property from another lane situated on the Eastern side of his house property having branches from Manapparai Main Road and he has been using the said lane as access to his house property by putting up a gate. The petitioner using the abovesaid 11 feet breadth of lane ie., South – North as a pathway to his house property. The third respondent has no legal right for claiming the abovesaid property. Originally, the petitioner's mother had sold an extent of 837 sq. feet of land and a house property situated thereon in favour of one Visalakshi, wife of Viswanathan, from whom the third respondent had purchased the house property. In the said sale deed, the vendor of the third respondent with



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malafide intention has mentioned the extent of land as 1097 sq. feet instead of original extent of 837 sq. feet. By virtue of the said sale deed, the third respondent mutated all the revenue records and also obtained patta in his name as per the sale deed, in respect of 1097 sq. feet. Thus, the third respondent has obtained patta to an extent of 2-1/2 cents instead of 2 cents with an intention to grab his extent of land. The aforesaid property has been sub-divided into two survey numbers ie., Survey Nos.1473/21 and 1473/22 respectfully. Due to the aforesaid dispute, the third respondent has developed animosity against the petitioner and therefore, he started claiming right over the above said lane of 11 feet breadth, which is only used by the petitioner and he only got right over the same. Further, the petitioner has also preferred a criminal complaint against the third respondent and the same has been registered in Crime No.587 of 2021, dated 02.08.2021. According to the petitioner, he has not put up any new construction in the said lane and the said lane is not a common lane as claimed by the third respondent. When that being the position, the second respondent has conducted the survey in the said lane on 19.08.2021 without any prior intimation to the petitioner and passed the impugned order, dated 31.08.2021 stating that the petitioner has put up asbestos roof and he has encroached the entire lane area and also put a gate and further



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directed the petitioner to remove the said encroachment within 7 days from the date of receipt of the said notice. Challenging the said impugned order, the petitioner has filed the present Writ Petition.

4.The learned counsel appearing for the petitioner submitted that the second respondent has not chosen to follow the procedure as contemplated under the Tamil Nadu Land Encroachment Act or the Tamil Nadu District Municipalities Act. Further, the learned counsel appearing for the petitioner strongly contended the aforesaid notice for removal of encroachment is liable to be quashed, for the simple reason that the second respondent has not provided any opportunity to the petitioner to putforth his contention before the authority.

5.Per contra, the learned Additional Government Pleader appearing for the respondents 1 and 2 drew the attention of this Court by stating that as per 'A' register, the aforesaid lane in Survey No.1473/23 is classified as Sarkar Poramboke (சர்க்கு). The petitioner has no right to claim over the said pathway and notice has been served to the petitioner for removal of encroachment in the said lane.



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**WEB COPY** 6. Heard the learned counsel appearing on either side and perused the materials available on record.

7. On a perusal of the impugned order passed by the second respondent, dated 31.08.2021, it is seen that the second respondent has issued notice to the petitioner to remove the encroachments within a period of 7 days from the date of receipt of the said notice, failing which, action will be taken for removal of encroachment. The petitioner has not disputed the fact that the said lane is classified as (செது). Therefore, the petitioner has no legal right to occupy the said subject property, which is classified as lane. When no other material has been placed before this Court to claim any other right of the aforesaid property, we are not inclined to accept the contention of the petitioner and there is no merit in the Writ Petition. Further, it is the specific case of the second respondent that the subject matter of the property has been measured and demarcated in the presence of the Surveyor, Tahsildar and Village Administrative Officer and found that the said property has been encroached by the petitioner. When that being the case, the petitioner has encroached the subject property and he cannot have any right to occupy the said lane.



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8. In view of the above, the petitioner is directed to remove the encroachment within a period of two weeks from the date of receipt of a copy of this order, failing which, the second respondent shall remove the said encroachment by following due process of law, if necessary, with police protection.

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

**[D.K.K.,J.] [R.V.,J.]**  
**08.12.2022**

Index : Yes / No  
Internet : Yes  
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To

1. The Tahsildar,  
Gujiliyamparai Taluk,  
Dindigul District.
2. The Executive Officer,  
Palayam Town Panchayat,  
Gujiliyamparai Taluk,  
Dindigul District.



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**D. KRISHNAKUMAR,J.**  
**and**  
**R.VIJAYAKUMAR,J.**

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**ORDER MADE IN**  
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**DATED : 08.12.2022**