



W.P(MD)No.16896 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2022

CORAM

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

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D.Rajendran

... Petitioner

Vs.

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The District Revenue Officer,
Ramanathapuram District,
Ramanathapuram.
- 3.The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.
- 4.The Tahsildar,
Rameshwaram Taluk,
Ramanathapuram District.
- 5.The Block Development Officer (VP),
Pamban Panchayat Union,
Ramanathapuram District.



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6.The President,
Pamban Village Panchayat,
Rameshwaram Taluk,
Ramanathapuram District.

7.Naveen

8.R.Sivasankar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 6 herein to remove the encroachment made by the respondents 7 and 8 herein, in Survey Nos.1046/19A1 and 1046/19A2, Pamban group, Pamban Panchayat, Kizakkuvalasai Street, Rameshwaram Taluk, Ramanathapuram District, in the light of the notice issued by the fourth respondent herein in A2/2446/2013 dated 03.05.2013 within a stipulated time.

For Petitioner : Mr.S.Bharathy Kannan

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader
for RR1 to 4

Mr.S.P.Maharajan
Special Government Pleader
for RR5 and 6



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ORDER

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

Heard Mr.S.Bharathy Kannan, learned counsel appearing for the petitioner, Mr.N.Satheesh Kumar, learned Additional Government Pleader appearing for the respondents 1 to 4 and Mr.S.P.Maharajan, learned Special Government Pleader appearing for the respondents 5 and 6.

2. This Writ Petition has been filed for issuance of a writ of Mandamus, to direct the respondents 1 to 6 herein to remove the encroachment made by the respondents 7 and 8 herein, in Survey Nos. 1046/19A1 and 1046/19A2, Pamban group, Pamban Panchayat, Kizakkuvalasai Street, Rameshwaram Taluk, Ramanathapuram District, in the light of the notice issued by the fourth respondent herein in A2/2446/2013, dated 03.05.2013 within a stipulated time.

3. The case of the petitioner is that one Ayya Adimai, who is the father of the seventh respondent and Ramamoorthy, who is the father of the eight respondent, have encroached the land in Survey No.1046/19A1, 19A2 in Kizhakkuvalasai Village, which is a public pathway.



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4. The learned counsel appearing for the petitioner submits that the Panchayat had earlier passed a resolution and had written a letter to the sixth respondent/Tahsildar to remove the encroachment made in two survey fields. The learned counsel has also relied upon the communication of the Tahsildar/fourth respondent which indicates that the Block Development Officer may remove the encroachment.

5. However, the learned Additional Government Pleader submits that the Tahsildar, in his communication, dated 28.07.2022, has stated that the property in Survey No.1046/19A1 is a patta land and there is no revenue record to show that the portion of the property in Survey No. 1046/19A2 is classified as common pathway. It has been further stated that the property in Survey No.1046/19A2 is registered in the name of the seventh respondent.

6. From the information furnished by the learned Additional Government Pleader, this Court is unable to sustain the claim of the petitioner that the property in Survey No.1046/19A1 is a land through which the petitioner and the villagers have a right of way. It is not for the Revenue Officials to decide the right or title. When there are materials to



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show that the subject properties are registered in the name of the individual, it is open for the petitioner or anyone claiming right to have access through the land, to approach the civil Court, unless such right is established by revenue records.

7. Having regard to the documents and the fact that there is no material to decide the right or title, this Court is of the view that the petitioner is not entitled to any positive direction from this Court for removal of encroachment. However, it is open to the petitioner or any other villager to file a civil suit to establish the character of the property. When a civil suit is filed by the petitioner or any other villager, the same shall be decided without being influenced by any of the observations made in this writ petition.

8. Accordingly, the Writ Petition stands dismissed. No costs.

[S.S.S.R., J.] [S.S.Y., J.]
29.07.2022

Index : Yes/No
Internet : Yes
ssb



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S.S.SUNDAR, J.
AND
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ORDER MADE IN
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