



W.P.(MD)No.17467 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :04.08.2022

CORAM:

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

W.P.(MD)No.17467 of 2022

Palpandi

... Petitioner

Vs.

1. The District Collector,
Madurai District,
Madurai.

2. The Revenue Divisional Officer,
Usilampatti,
Madurai District.

3. The Tahsildar,
Peraiyur Taluk,
Peraiyur,
Madurai District.

4. The Block Development Officer,
T.Kallupatti Panchayat Union,
T.Kallupatti,
Madurai District.

5. The Village Administrative Officer,
Mathakkarai Village,
Peraiyur Taluk,
Madurai District.



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6. Vairamuthu

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 5 to remove the encroachments made in cement road pathway situated in S.No.228/10A, Mathakkarai Village, Peraiyur Taluk, Madurai District on the basis of the representation dated 01.12.2021.

For Petitioner : Mr.A.Ananda Raj

For Respondents : Mr.J.Ashok,
Additional Government Pleader
(For R-1 to R-3 and R-5)
Mr.N.Satheesh Kumar,
Additional Government Pleader
(For R-4)

ORDER

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

This Writ Petition is filed for issuance of a Writ of Mandamus, directing the respondents 1 to 5, to remove the encroachments made by the sixth respondent in Survey No.228/10A, Mathakkarai Village, Peraiyur Taluk, Madurai District.



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2. Heard Mr.A.Ananda Raj, learned counsel for the petitioner, Mr.J.Ashok, learned Additional Government Pleader who takes notice for respondents 1, 2, 3 and 5 and Mr.N.Satheesh Kumar, learned Additional Government Pleader who takes notice for fourth respondent.

3. It is stated by the petitioner in the affidavit filed in support of this writ petition that he is residing in Mathakkarai village. Stating that there is a cart track in Survey No.228/10A, the petitioner submitted a representation to the Revenue Divisional Officer, Madurai District, for removal of encroachment made by the sixth respondent on the ground that the cart track running through Survey No.228/10A has been encroached by the sixth respondent.

4. It is seen that except the FMB prepared during UDR, the petitioner has not filed any other document to prove his claim. As a matter of fact, the Settlement Register produced by the petitioner also indicates that the sixth respondent is the pattadhar of Survey Nos.228/10A and 10B. Though in the remarks column, there is a reference to the cart track, that is in respect of Survey No.228/10B and



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not in respect of Survey No.228/10A. But, both the properties in Survey No.228/10A and 10B in Mathakkarai Village, had been shown as patta lands of sixth respondent. Therefore, the question whether there is a cart track running through the land in Survey No.228/10A or not, cannot be decided by this Court in the absence of revenue records or documents to establish that the petitioner is entitled to the right of easement to use the cart track as public cart track. Hence, this Court is not inclined to entertain the writ petition.

5. In the result, this writ petition is dismissed. However, it is open to the petitioner to establish his right to have access through the cart track after establishing his right of easement or the right under the common law before the civil Court. No Costs.

[S.S.S.R., J.] [S.S.Y., J.]
04.08.2022

Index : Yes / No

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