



W.P.(MD)No.17505 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.08.2022

CORAM

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

W.P.(MD)No.17505 of 2022

S.Sekar

... Petitioner

Vs.

1.The District Collector
Virudhunagar District,
Virudhunagar.

2.The Revenue Divisional Officer
Sivakasi,
Virudhunagar District.

3.The Tahsildar
Sivakasi Taluk,
Virudhunagar District.

4.The Commissioner
Sivakasi Corporation,
Sivakasi,
Virudhunagar District.

5.The Correspondent
Sundaravel Metric Higher Secondary School,
No.334, Satchiyapuram Road,
Thiruthangal - 626 130,
Virudhunagar District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the fourth respondent to remove the unauthorized construction made by the fifth respondent in 12 feet south-north street comprised in Survey No.1253/3 at Satchiyapuram Road, Thiruthangal, Virudhunagar District, by considering the petitioner's representation, dated 26.07.2022.

For Petitioner : Mr.T.Lenin Kumar

For Respondents : Mr.D.Sadiq Raja - R1 to R3

Additional Government Pleader

ORDER

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

This writ petition is filed for issuance of a Mandamus directing the fourth respondent to remove the unauthorized construction made by the fifth respondent in 12 feet south-north street comprised in Survey No. 1253/3 at Satchiyapuram Road, Thiruthangal, Virudhunagar District, by considering the petitioner's representation, dated 26.07.2022.



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2. The petitioner has filed this writ petition as 'Public Interest Litigation'. The petitioner is residing in Door No.341, Satchiyapuram Road, Thiruthangal Village, Virudhunagar District.

3. The grievance of the petitioner is that the fifth respondent School has put up construction adjoining the petitioner's building and that the fifth respondent has recently open their wall abutting the road which is meant for purchasers of plots in the residential colony.

4. From the plan, representation and photographs produced before this Court, this Court is able to understand the grievance of the petitioner. The petitioner has serious objections to the act of the fifth respondent to demolish a portion of the compound wall belonging to the fifth respondent to put up a gate with an intention to use the lay out road, which is abutting the compound wall. The photograph produced by the petitioner would show that the demolished portion of the wall is abutting the 12 feet road. The question is whether the fifth respondent is entitled to have access through the 12 feet road abutting the school compound wall. This may also be considered and decided after holding enquiry and



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hearing the respective parties and considering documents that may be produced before the authority concerned. There is no encroachment as such made by the fifth respondent.

5. The writ petitioner as a resident of the residential colony, may have a valid objections if the fifth respondent put up his gate in such a way that the doors of the gates on opening will encroach into the public road. In other words, it is open to the fifth respondent to have a gate abutting the layout road without encroaching it. If the petitioner seeks a special right or privilege which would enable them to prevent the fifth respondent from opening the gate in front of the lay out road, liberty is given to the petitioner to approach the Civil Court to enforce his right as against the fifth respondent. However, the representation of the petitioner submitted to the fourth respondent shall be considered and the fourth respondent is directed to pass appropriate orders preventing the fifth respondent from encroaching into any portion of the public road or layout road by opening the gate to cause obstruction in the road portion thereby preventing the public from using the full length or breadth of the road for having access.



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6. With the above directions, the writ petition stands disposed
of. No costs.

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

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Index : Yes / No

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