



W.P.(MD)No.19421 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2022

CORAM:

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

W.P(MD)No.19421 of 2022

T.Selvaraj

... Petitioner

Vs.

1.The District Collector,
Thoothukudi,
Thoothukudi District.

2.The Revenue Divisional Officer,
Thoothukudi,
Thoothukudi District.

3.The Tahsildar,
Thiruchendur Taluk,
Thoothukudi District.

4.The Udangudi Town Panchayat,
Represented by its Executive Officer,
Udangudi,
Thiruchendur Taluk,
Thoothukudi.

5.Chandrasekaran

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the official respondents 1 to 4 to take necessary action and remove the encroachments made by



W.P.(MD)No.19421 of 2022

the 5th respondent in Survey No.386/6, Rajam Nagar, Udangudi Town Panchayat limits which is a public road/pathway leading to the Puthumanai Street main road within a time frame to be fixed by this Hon'ble Court in the light of the petitioner's representations dated 16.05.2019, 04.12.2019, 25.05.2022 and 06.07.2022.

For Petitioner : Mr.N.Dilip Kumar

For Respondents 1 to 3 : Mr.T.Amjadkhan
Government Advocate

For 4th Respondent : Mr.S.P.Maharajan
Special Government Pleader

* * *

ORDER

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

This Writ Petition is filed for issuance of a Writ of Mandamus, to direct the official respondents 1 to 4 to take necessary action and to remove the encroachments made by the 5th respondent in Survey No.386/6, Rajam Nagar, Udangudi Town Panchayat.

2.Heard Mr.N.Dilip Kumar, learned counsel for the petitioner, Mr.T.Amjadkhan, learned Government Advocate, who accepts notice on behalf of respondents 1 to 3 and Mr.S.P.Maharajan, learned Special Government Pleader, who



W.P.(MD)No.19421 of 2022

accepts notice on behalf of the fourth Respondent. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

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

4. It is the case of the petitioner that the fifth respondent has encroached the public road/pathway in Survey No. 386/6, Rajam Nagar, Udangudi Town Panchayat, leading to the Puthumanai Street main road. The petitioner states that he has purchased plot Nos.21 to 25 in the layout covering the field in S.No. 382/6. The case of the petitioner is that the promoter of the layout has already gifted portions which are reserved for road in favour of State and local body. It is further stated that based on the promise given to the plot owners and the gift deed executed by the promoter, the owners of the plots are entitled to use the road, which is reserved in the layout as a matter of right. Relying on the decision of Hon'ble Supreme Court in ***PT. Chet Ram Vashist v. Municipal Corporation of Delhi*** reported in ***(1995) 1 SCC 47***, learned counsel for the petitioner further states that plot roads



W.P.(MD)No.19421 of 2022

being vested with the local body, they are duty bound to remove encroachment in public road.

5. The representations of the petitioner are based on the allegation that the purchasers of plots in the layout are prevented from having access to their house by the obstructions caused by the fifth respondent.

6. Though the petitioner seeks a positive direction for removal of encroachment, learned counsel for the petitioner states that the petitioner will be satisfied if a direction is issued to respondents 1 to 4 to consider the representation of the petitioner and to take appropriate action after holding an enquiry.

7. Having regard to the relief i.e., now sought for before this Court by the learned counsel for the petitioner, this Court, without expressing any opinion on the averments made in the affidavit filed in support of petition and the representations, directs the respondents 3 and 4 to consider the representation of the petitioner dated 06.07.2022, and take appropriate action after issuing notice to the persons interested, particularly, the 5th



W.P.(MD)No.19421 of 2022

respondent. The 3rd respondent, namely, the Tahsildar is directed to conduct survey after issuing notice to the petitioner and the 5th respondent and submit a report to the fourth respondent. If the Survey Report reveals encroachment in the lands earmarked for road, the fourth respondent is directed to take appropriate action in accordance with the provisions of the Tamil Nadu District Municipalities Act, 1920 particularly Section 182 of the Act or under the provisions of the Tamil Nadu Public Premises (Eviction of Unauthorized Occupants) Act, 1975. The local body or the Competent Authority has to take action for removal of encroachment by following due process of law, within a period of eight weeks from the date of receipt of Survey Report from the Tahsildar indicating encroachment by fifth respondent.

8. The Writ Petition stands disposed of with the above directions. No costs.

[S.S.S.R., J.] [S.S.Y., J.]
24.08.2022

Index : Yes / No

sj



W.P.(MD)No.19421 of 2022

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and

S.SRIMATHY, J.

sj

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Thoothukudi District.
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