



W.P.(MD) No.21819 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

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S.Nithya

... Petitioner

Vs.

1.The District Collector,
Collectorate Office,
Sivagangai.

2.The District Revenue Officer,
Collectorate Office, Sivagangai.

3.The Tahsildar,
Tahsildar Office,
Thiruppathur, Sivagangai.

4.The Executive Officer,
Nerkuppai Town Panchayat,
Nerkuppai, Thiruppathur Taluk,
Sivagangai District.



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5.Karuppaiah

6.Palaniyappan

7.Murugan

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the 3rd and 4th respondents to remove the permanent structure erected by 5th, 6th and 7th respondents in the public road situated in S.F.No.131/12, 687/2 and consequently, direct the 3rd and 4th respondents to make necessary arrangements by restoring it to its original position for free flow of movement in order to utilize the same for public purpose based on the petitioner's representations dated 28.12.2021, 09.01.2022, 01.02.2022, 05.07.2022 and 08.08.2022.

For Petitioner : Mr.M.Srinivasa Raghavan

For R1 to R3 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader.

For R4 : Mr.N.GA.Nataraj,
Government Advocate.

ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

Mr.G.V.Vairam Santhosh, learned Additional Government Pleader takes notice for the respondents 1 to 3 and Mr.N.GA.Nataraj, learned Government Advocate takes notice for the 4th respondent.



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2.By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

3.Since this Writ Petition is disposed of at the admission stage itself and considering the nature of relief sought for by the petitioner, notice to the respondents 5 to 7 is dispensed with.

4.According to the petitioner, there is a public road in S.F.No.131, which is the only pathway to reach the petitioner's house and other people in the locality. The extension of the road has been clearly mentioned in the field map and in the revenue records. The petitioner's grievance is that the respondents 5 to 7 have encroached the said road. Hence, she made several representations to the official respondents to remove the said encroachment. Based on the representations given by the petitioner, the 1st respondent, by an order dated 21.03.2022, directed the 3rd respondent to take appropriate action against the encroachers. Thereafter, the 4th respondent requested the 3rd respondent to survey the said land for removal of encroachment. Therefore, a survey has been done and a report has also been submitted by the concerned Revenue Inspector on 18.07.2022. Based on the said report, the 3rd respondent, vide a letter dated



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21.07.2022, has clearly stated that there are encroachments in the public road and directed the 4th respondent to take action and remove the same. However, without considering the direction of the 3rd respondent, the 4th respondent sent a letter dated 11.08.2022, stating that the road laid down in the disputed area has not caused any inconvenience to the residents therein and concluded that the encroachments, if any, can be removed only after the general survey orders from the Government. Thereafter, the 3rd respondent sent a notice dated 18.08.2022, directing the petitioner to appear for enquiry on 25.08.2022 and the petitioner has also appeared for enquiry along with relevant documents. However, according to the petitioner, such an enquiry is a formal procedure. Hence, the petitioner has approached this Court by way of filing this Writ Petition.

5.The learned Government Pleader appearing for the respondents 1 to 3, on instructions, would submit that based on the representation of the petitioner, dated 28.12.2021, an enquiry was conducted and if a reasonable time is granted to the authorities, final orders will be passed.

6.Considering the submissions made on either side and also considering the facts and circumstances of the case, we direct the 3rd respondent to pass final orders on merits and in accordance with law and take appropriate



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action against the encroachers, if any, within a period of three (3) weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition is disposed of. No costs.

[R.M.D., J.] & [J.S.N.P., J.]
15.09.2022

Index : Yes / No

Internet : Yes / No

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To

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2. The District Revenue Officer,
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3. The Tahsildar,
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