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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 17.12.2021

PRONOUNCED ON : 20.01.2022

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P. (MD).No.20680 of 2021

Jerom Santhanaraj

... Petitioner

Vs.

- 1.The District Collector,
Office of the Collectorate,
Pudukottai District.
- 2.The Revenue Divisional Officer,
Pudukottai, Pudukottai District.
- 3.The Block Development Officer,
Thiruvarankulam, Alangudi Taluk,
Pudukottai District.
- 4.The Tahsildar,
Alangudi Taluk,
Pudukottai District.

... Respondents

Prayer:Writ Petition filed under Section 226 of the Constitution of India, seeking issuance of Writ of Mandamus to direct the respondents to remove the encroachment made in the common public road (Government Cart Route (Vandi Pathai) in Survey No.464/13, 473/1 and 474/1 in Vellagulam Village, Keelathur Panchayat, Alangudi Taluk, Pudukottai District and restore the common public road as per the measurement stated in the concerned FMB sketch in the said survey numbers within the time frame.

For Petitioner : Mr.S.Arokiamaniraj

For Respondents : Mr.M.Siddharthan
1,2 and 4 Additional Government Pleader

For R3 : Mr.P.Subbaraj,
Special Government Pleader



ORDER

(Order of the Court was made by P.VELMURUGAN, J.)

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The petitioner has filed this Writ Petition in the nature of Writ of Mandamus directing the respondent to remove the encroachment made in the common public road (Government Cart Track), in Survey No.464/13, 473/1 and 474/1 in Vellakulam Village, Keelathur Panchayat, Alangudi Taluk, Pudukottai District and restore the common public road as per the measurement mentioned in the concerned Field Measurement Book (FMB) sketch in the said survey numbers within the time frame.

2. The petitioner has stated in his affidavit that the petitioner's land is next to the Survey No.464/13 and he is not able to reach his property with free ingress and egress along with his vehicle and therefore, he personally affected due to the encroachment made on the public road. As per the 'A' Register maintained by the Revenue Department, it is mentioned that S.No.464/13 is a Stream (Vaari) and Survey No.473/1 and 474/1 are shown as Government Cart Route (Vandi paathai). The adjacent land owners have encroached either side of the public road. Therefore, the petitioner's father made several representations from the year 2013 and till his life time, he did not get any relief. The President of Keelanur Panchayat has passed a resolution to remove the encroachment from the common public road. He had also written a letter, referring to the resolution, which has been passed and requested the Revenue Officials to remove the encroachments.

3. The learned counsel for the petitioner would submit that on 03.11.2016, the Sub Collector, Pudukottai, has ordered the Tahsildar, Alangulam Taluk, Pudukottai District, to conduct enquiry and take action on the basis of the representations given by the petitioner's father and submit an enquiry report along with village accounts within a period of fifteen(15) days. Based on the order, an enquiry was conducted by the Tahsildar, Alangulam Taluk and a proceedings in Na.Ka.No.8033/2021/A1, dated 06.12.2021 was forwarded to the Block Development Officer, Thiruvarankulam, Pudukottai District. In the said representation, dated 06.12.2016, it is mentioned that Survey No.464/13, 473/1 and 474/1 are Government Poromboke land which are Stream and Cart route (Vaari and Vandi Pathai), as per 'A' register maintained by the Revenue Officials. The said report sent to the Block Development Officer, Thiruvarankulam, also states that the common public road was encroached by nearby patta land holders and a case to that effect has been filed before this Court to remove the encroachment and therefore, a proposal to remove the encroachments in the above said Survey Numbers, can be made. But till date, no action has been



taken to remove the encroachments either by Revenue Officials or by the Block Development Officials.

4. It is further submitted by the learned counsel for the petitioner that the petitioner's father also passed away and now the petitioner is facing the same problem and therefore, he has filed the present writ petition by way of Public Interest Litigation.

5. After serving notice, the fourth respondent has filed counter affidavit, stating that "based on the representation of the petitioner, the land in SF Nos.464/1, 463/22 connecting to S.F.No.474/1 and 473/1 are, for the usage of villagers of the Vellangulam village, Keelathur Panchayat. Further it is stated that the land in S.F.No.464/13 to an extent of 0.32.0 hectare, is classified as Vaari Poromboke in the revenue records. But the channel is neither a feeder channel nor a supply channel and end in the middle of the land and the adjacent land owners about 12 persons have occupied the land along with their patta lands. If the encroachments are removed, the petitioner can use the same as cart track to reach his land instead of using the same as water course. The said land in SF No.464/13 was inspected by the Revenue Inspector along with surveyor and identified that 12 persons have encroached the said land by way of cultivation and waste. Based on the inspection report made by the Revenue Inspector, the second respondent was addressed by the third respondent along with the list of encroachers, to carry out the eviction under Section 131(2) of the Tamil Nadu Panchayat Act, 1994, since the second respondent is in possession of machineries, such as JCB and bulldozer to carry out the removal of the encroachments. The petitioner has a private interest and it is not a public interest litigation. However, the jurisdictional Block Development Officer shall carry out the exercise within a period of six weeks from the date of receipt of a copy of this order. During the eviction proceedings of the second respondent, the Revenue Officials and the survey officials are deputed for co-operating in eviction of encroachments in S.No.464/13 Vari poramboke in Keelathur Revenue Village".

6. Heard the learned counsel on either side and perused the materials available on record.

7. Admittedly, Survey No.464/13, is a Vaari Poramboke, as per the revenue records and Survey Nos.473/1 and 474/1 in the said village, are Cart tracks. It is seen from the affidavit filed by the petitioner that a communication has been sent by the father of the petitioner during 'Petition Day' before the District Collector, Pudukottai District. Based on that, the Tahsildar, Alangudi Taluk, Pudukottai District, has sent a communication to the Block Development Officer / the fourth respondent herein, to take necessary action to restore the Vaari to the original position. Since the petitioner's father died, the petitioner again made a



representation 02.10.2021, before the first respondent/the District Collector to remove the encroachment and in the 'A' Register itself, it is found that the Survey No.464/13 is a Vaari Poramboke.

8. In the petition given by the father of the petitioner also, it is stated that the Survey No.464/13 is a Vaari Poramboke and has been encroached by the adjacent land holders and he has not stated anything about the encroachment made in the Cart track in S.No.473/1 and 474/1 of the said village. However, the petitioner has stated in his affidavit that both the Vaari Poramboke and public cart track in S.Nos.464/13, 473/1 and 474/1 of the said village, were encroached by the adjacent land holders and he filed this petition to remove the encroachments.

9. Though the fourth respondent filed counter affidavit he has stated that there is no encroachment in the cart track. However, he admitted that the cart track is available in S.F.No.464/1, 463/22, 474/1 and 473/1 for the use of villagers of Vellangulam Village, Keelathur Panchayat. However, he has stated that in the land in S.F.No.464/13, to an extent of 0.32.0 hectares classified as Vaari Poramboke in the revenue records, the adjacent land owners about 12 persons have occupied the said Vaari Poramboke along with their patta lands. Since the S.F.No.464/13 is classified as Vaari Poramboke and it is found that the adjacent land owners have encroached the said Vaari Poramboke, it is the duty of the respondents 3 and 4 to remove the encroachers and restore the said Vaari poramboke and to its original position, as it was earlier. Further, in the revenue records, namely, the 'A' Register, it is clearly found that S.F.Nos.473/1, 474/1, 467/1 and 463/22 are classified as Cart track poramboke and the fourth respondent has stated that there is no encroachment in the said Cart track.

10. However, the petitioner has submitted that the third respondent may be directed to remove the said encroachments in the Vaari poramboke in S.F.No.464/13, and restore the Vaari as it was in the original position. As far as the cart track in Survey Nos.473/1, 474/1, 464/1, 463/22 is concerned, if any encroachment is found, the same may be restored.

11. Therefore, the respondents 2 and 3 are directed to remove the encroachments in S.F.No.464/13 and restore the vaari as it was in the original position and also remove encroachment if any, in the Cart track in the Survey Nos.473/1, 474/1, 464/1 and 463/22 of the Keelathur Village, Alangulam Taluk, Pudukottai District and the said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order and file a compliance report before this Court.

12. With the above said directions, this Writ Petition stands allowed. No costs.



13. Post after six weeks "For Reporting Compliance".

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The District Collector,
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Pudukottai District.
- 2.The Revenue Divisional Officer,
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- 3.The Block Development Officer,
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- 4.The Tahsildar,
Alangudi Taluk,
Pudukottai District.

COPY TO:

The Section officer, Writ Section,
Madurai Bench Of Madras High Court, Madurai.

+1 CC to M/s.S.AROKIAMANIRAJ, Advocate (SR-1875[F] dated 20/01/2022)

W.P. (MD) .No.20680 of 2021
20.01.2022

RD(28.01.2022) 5P 7C