



W.P.(MD)No.22533 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2022

CORAM

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**
and
THE HONOURABLE MR.JUSTICE **J.SATHYA NARAYANA PRASAD**

W.P(MD)No.22533 of 2022

T.Shanmugam

... Petitioner

Vs.

1.The District Collector,
Kanniyakumari District - 629 001.

2.The Revenue Divisional Officer,
Nagercoil,
Kanniyakumari District - 629 001.

3.Block Development Officer,
Village Panchayat,
Rajakamangalam, Palavilai,
Kanniyakumari District - 629 501.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus, to direct the 1st respondent to consider the petitioner's representation dated 30.07.2022 based on the order passed by the second respondent in his proceeding No. 1/4959/2021 13-07-2022 for removing encroachment made in Survey No.933/3 and 933/4 of Melakrishnanputhoor Village to access path by public and the petitioner.

For Petitioner

: Mr.M.Antony Jesubalan



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For Respondents 1 & 2 : Mr.V.Nirmal Kumar
Government Advocate

For 3rd Respondent : Mr.N.GA.Nataraj
Government Pleader

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ORDER

(Order of the Court was made by **R.MAHADEVAN, J.**)

The petitioner has come forward with this writ petition praying to issue a Writ of Mandamus, directing the 1st respondent to consider the petitioner's representation dated 30.07.2022, based on the order passed by the second respondent in his proceeding No. 1/4959/2021, dated 13-07-2022, for removing the encroachment made in Survey Nos.933/3 and 933/4 of Melakrishnanputhoor Village, to have access to the pathway by public and the petitioner.

2. Heard Mr.M.Antony Jesubalan, learned counsel for the petitioner, Mr.V.Nirmal Kumar, learned Government Advocate, who accepts notice on behalf of the respondents 1 & 2 and Mr.N.GA.Nataraj, learned Government Advocate, who accepts notice on behalf of the 3rd respondent. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.



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3. Pointing out the encroachment in public pathway comprised in S.Nos.933/3 and 933/4 of Melakrishnanputhoor Village, the petitioner submitted a representation to the first respondent and pursuant to the same, the first respondent – District Collector directed the second respondent – Revenue Divisional Officer to conduct an enquiry and pass appropriate order for removing the encroachment. Accordingly, the 2nd respondent conducted a thorough enquiry and passed an order vide his proceedings No. 1/4959/2021, dated 13-07-2022, to remove the encroachment made in S.Nos.933/3 and 933/4 of Melakrishnanputhoor Village, through the third respondent, which, according to the learned counsel for the petitioner, is not acted upon.

5. Considering the facts and circumstances of the case and the submissions of the learned counsel on either side, this Writ Petition is disposed of with a direction to the third respondent to proceed further pursuant to the direction of the second respondent in proceedings No. 1/4959/2021, dated 13-07-2022, after issuing notice and conducting survey in the presence of the petitioner, the alleged encroacher Mrs.Sarojini and all the parties



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concerned and thereafter, take necessary action for removal of the encroachment, if any, in the pathway in S.Nos.933/3 and 933/4 of Melakrishnanputhoor Village, after affording an opportunity of hearing to the said Mrs.Sarojini and all the parties concerned and by following due process of law. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs.

[R.M.D., J.] [J.S.N.P., J.]
26.09.2022

Internet : Yes / No

Index : Yes / No

sj

To

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- 3.Block Development Officer,
Village Panchayat,
Rajakamangalam, Palavilai,
Kanniyakumari District - 629 501.



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and

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sj

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