



W.P.(MD) No.24736 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.24736 of 2022

and

W.M.P.(MD)No.18832 of 2022

M.Kondal

... Petitioner

-Vs-

1.The District Collector,
Virudhunagar District, Virudhunagar.

2.The Commissioner,
Rajapalayam Municipality,
Rajapalayam, Virudhunagar District.

3.Paramasivam

4.Ayyanar

Page 1 of 6



W.P.(MD) No.24736 of 2022

WEB COPY

5.Ramasamy Mudaliyar

6.Anandan

7.Kalyani

8.Soundarrajan

9.Murugan

10.Kaaleswari

11.S.K.Jeyachandran

12.Radhakrishnan

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to remove the encroachment made by the respondents 3 to 12 in the pathway comprised in T.S.No.70/1 situated at Kothankulam Village, Rajapalayam Taluk, Virudhunagar District and lay the road over the same.

For Petitioner : Mr.A.Jayaramachandran

For R1 : Mr.S.P.Maharajan,
Special Government Pleader

For R2 : Mr.N.Dilip Kumar
Standing Counsel



W.P.(MD) No.24736 of 2022

WEB COPY

ORDER

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

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the 2nd respondent to remove the encroachment made by the respondents 3 to 12 in the pathway comprised in T.S.No.70/1 situated at Kothankulam Village, Rajapalayam Taluk, Virudhunagar District and lay the road over the same.

2.According to the petitioner, the respondents 3 to 12 made an encroachment upon the pathway in question and the petitioner came to know that the 2nd respondent has decided to lay a road in the pathway in question. Hence, he made an application dated 03.10.2022 to conduct a survey in the pathway in question to the Surveyor of the 2nd respondent's office along with required fee. However, the same was not considered. Therefore, he made a representation dated 06.10.2022 to the 2nd respondent not to lay the road in the said pathway, however, there was no response. Hence, he made a representation dated 10.10.2022 to the 1st respondent to remove the encroachment in the said pathway and then to lay 20 feet road. The 1st respondent forwarded the same to

Page 3 of 6



W.P.(MD) No.24736 of 2022

WEB COPY

the 2nd respondent to take appropriate action on or before 25.10.2022. In compliance of the same, on 11.10.2022, the Junior Engineer along with survey staffs of the 2nd respondent's office conducted a survey without issuing any notice to the petitioner. Thereafter, no steps were taken to remove the encroachment. Hence, the petitioner sent an application on 21.10.2022 under RTI Act, to the 2nd respondent's office, seeking details of laying road in the pathway in question. However, till date, there is no response. Hence, this Writ Petition is filed.

3.Today, when the matter was taken up for hearing, the learned Standing Counsel for the 2nd respondent submitted that necessary survey would be conducted in the pathway in question, after issuing notice to the petitioner as well as any other interested parties and after completion of survey, if there is any encroachment in the pathway in question, the same would be removed by the authorities concerned, after affording sufficient opportunity to all the parties concerned, within a time frame, for which, the learned counsel for the petitioner is agreeable.



W.P.(MD) No.24736 of 2022

WEB COPY

4. In view of the above, without going into the merits of the case, this Court directs the authorities concerned to conduct a survey in the pathway in question in the presence of the petitioner as well as any other interested parties, after issuing notice to them well in advance, within a period of four weeks from the date of receipt of a copy of this order. If the survey reveals any encroachment as projected by the petitioner, the same shall be removed by the authorities concerned, after affording sufficient opportunity to all the parties concerned and by following due process of law, within a period of eight (8) weeks thereafter.

5. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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

16.11.2022

Index : Yes / No

Internet : Yes / No

Myr

Page 5 of 6



WEB COPY



W.P.(MD) No.24736 of 2022

R.MAHADEVAN, J.

AND

J.SATHYA NARAYANA PRASAD, J.

Myr

To

The District Collector,
Virudhunagar District,
Virudhunagar.

W.P.(MD)No.24736 of 2022

16.11.2022

Page 6 of 6