



W.P.(MD) No.23231 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2022

CORAM:

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

W.P.(MD) No.23231 of 2021

K.Velayutham

... Petitioner

-VS-

1.The District Collector
Madurai District, Madurai

2.The Revenue Divisional Officer
O/o.The Revenue Divisional Officer
Madurai, Madurai District

3.The Tahsildhar
Madurai North Taluk
Madurai District

4.V.Alagammal

5.The Madurai Corporation
rep.by its Commissioner
Arignar Anna Maligai
Thallakulam
Madurai-625 002
[R5 is impleaded vide Court Order
dated 12.10.2022 in W.M.P.(MD) No.
8467 of 2022]

... Respondents



W.P.(MD) No.23231 of 2021

WEB C

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 3 to remove the encroachment made by the fourth respondent in the public pathway in Ward No.5, Kodikatha Kumaran Street, K.Pudhur, Tallakulam Village, Madurai North Taluk, Madurai District and the public pathway to its original position, within the stipulated time.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.V.Nirmal Kumar
Government Advocate for R1 to R3
Mr.J.Mathesh for R4
Mr.K.K.Kannan for R5

ORDER

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

The prayer in this writ petition is for issuance of a writ of mandamus directing the respondents 1 to 3 to remove the encroachment made by the fourth respondent in the public pathway in Ward No.5, Kodikatha Kumaran Street, K.Pudhur, Tallakulam Village, Madurai North Taluk, Madurai District and to restore the the public pathway to its original position, within the stipulated time.



W.P.(MD) No.23231 of 2021

WEB COPY

2. According to the petitioner, the fourth respondent has encroached a public pathway and seeking to remove the same, he made a representation dated 28.10.2020 to the first respondent and based on the petitioner's representation, the third respondent conducted a survey and *vide* proceedings in Na.Ka.No.6818/2020/A5, dated 04.08.2021 found that the fourth respondent has made encroachment as alleged by the petitioner and accordingly, directed her to remove the same. However, when the third respondent proceeded to remove the encroachment, the fourth respondent filed a civil suit in O.S.No.441 of 2021, before the District Munsif Court, Madurai, seeking declaration and permanent injunction and the same is pending. According to the petitioner, since the said encroachment is on a public pathway, under Sections 6 and 14 of the Tamil Nadu Land Encroachment Act, 1905, the authority concerned is duty bound to remove the same by due process of law.

3. The learned Government Advocate appearing for the respondents 1 to 3, on instructions, submitted that the encroachment, as alleged by the petitioner, would be removed in the manner known to law.



W.P.(MD) No.23231 of 2021

WEB COPY

4. In view of the above submissions, the authority concerned is directed to remove the encroachment, if any, made by the fourth respondent in the subject area, after giving due notice and sufficient opportunity to all the parties concerned and by following due process of law, within a period of eight (8) weeks from the date of receipt of a copy of this order.

5. With the above direction, this writ petition is disposed of. No costs.

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

12.10.2022

(2/2)

Index : Yes / No

Internet : Yes / No

krk

To:

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Madurai, Madurai District.
- 3.The Tahsildhar,
Madurai North Taluk,
Madurai District.



WEB COPY



W.P.(MD) No.23231 of 2021

R.MAHADEVAN, J.
and
J.SATHYA NARAYANA PRASAD, J.

krk

W.P.(MD) No.23231 of 2021

12.10.2022

(2/2)