



W.P(MD) No.25732 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2022

CORAM:

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

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... Petitioner

-VS-

1. The District Collector,
Tirunelveli Distirct,
Tirunelveli.

2. The Thasildar,
Radhapuram Taluk,
Tirunelveli District.

3. The President,
Thanakkarkulam Village Panchayat,
Tirunelveli District.

4. The Inspector of Police,
Radhapuram Police Station,
Tirunelveli District.

5. S.Velandi

... Respondents



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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 encroachments made by the fifth respondent in the public pathway namely Vandipathai in S.No.68/3 and some portions in the water body in S.No.71, Thanakkarkulam Village, Radhapuram Taluk, Tirunelveli District and further direct to ensure the free access in the public pathway by the general public to reach the cremation place and by considering the representations of the petitioner dated 25.04.2022 and 17.07.2022.

For Petitioner : Mr.R.Gowrishankar

For Respondents : Mr.P.Thilak Kumar,
Government Pleader
for R1 and R2
Mr.T.Senthil Kumar
Additional Public Prosecutor for R4
Mr.G.V.Vairam Santhosh
Additional Government Pleader for R3

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 respondents 1 to 3 to remove the encroachments made by the fifth respondent in the public pathway namely, Vandipathai in S.No.68/3 and some portions in the water body in S.No.71, Thanakkarkulam Village, Radhapuram Taluk, Tirunelveli



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District and further direct the respondents 1 to 3 to ensure free access in the said public pathway by the general public to reach the cremation place, by considering his representations dated 25.04.2022 and 17.07.2022.

2. Heard Mr.R.Gowrishankar, learned counsel for the petitioner; Mr.P.Thilak Kumar, learned Government Pleader, who accepts notice on behalf of the respondents 1 and 2; Mr.T.Senthil Kumar, learned Additional Public Prosecutor, who accepts notice on behalf of the fourth respondent and Mr.G.V.Vairam Santhosh, learned Additional Government Pleader, who accepts notice on behalf of the third respondent. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. Claiming that the fifth respondent has encroached the public pathway in Survey No.68/3 and some portions in the waterbody in Survey No.71, Thanakkarkulam Village, Radhapuram Taluk, Tirunelveli District, obstructing the free movement of the public over the said public pathway, the petitioner submitted the representations to the official respondents on 25.04.2022 and 17.07.2022 and the same, according to



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the learned counsel for the petitioner, remain as such.

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4. Learned counsel for the petitioner would further submit that though the petitioner has sought for a larger relief, he would be satisfied if a direction is issued to the respondents 1 to 3 to consider and dispose of his representation dated 17.07.2022, in accordance with law, within a time frame.

5. Considering the limited scope of the prayer now sought for by the petitioner, without expressing any opinion on the merits of the claim made by the petitioner either in the representation or in the affidavit filed in support of the Writ Petition, this Writ Petition is disposed of with a direction to the respondents 1 to 3 to consider the representation of the petitioner dated 17.07.2022 and pass appropriate orders on merits and in accordance with law. If there is any encroachment as claimed by the petitioner, after issuing notice and conducting survey in the presence of the petitioner and all other parties concerned, respondents 1 to 3 are directed to take necessary action for removal of encroachments in the place in question, after affording an opportunity of personal hearing to all the parties concerned and by following due process of law. Such an



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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.]
14.11.2022

Index : Yes / No
Internet : Yes / No
pkn

To:

1. The District Collector,
Tirunelveli District,
Tirunelveli.

2. The Thasildar,
Radhapuram Taluk,
Tirunelveli District.

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