



W.P.(MD) No.27339 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.27339 of 2022

P.Chandran

... Petitioner

-Vs-

1.The District Collector,
Thoothukudi District, Thoothukudi.

2.The Commissioner,
Thoothukudi Corporation, Thoothukudi.

3.The Tahsildar,
Thoothukudi.

4.Vaikundamani

... Respondents

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 4th respondent in the pathway lying in the land bearing S.No.233/1A situated in Attirmarapatti Ward, Korampallam Village,

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Thoothukudi District by considering the petitioner's representation dated 14.07.2022.

For Petitioner : Mr.G.Prabhu Rajadurai
For R1 to R3 : Mr.N.GA.Nataraj,
Government Advocate

ORDER

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

This Writ Petition is filed for issuance of Writ of Mandamus, directing the respondents 1 to 3 to remove the encroachment made by the 4th respondent in the pathway lying in the land in S.No.233/1A, situated in Attirmarapatti Ward, Korampallam Village, Thoothukudi District, by considering the petitioner's representation dated 14.07.2022 within a time frame.

2.Mr.N.GA.Nataraj, learned Government Advocate takes notice for the respondents 1 to 3. Considering the nature of order proposed to be passed in this Writ Petition, notice to the 4th respondent is dispensed with.



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3.By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

4.According to the petitioner, the pathway in question was gifted to the Village Panchayat by one Duraisamy Nadar in the year 1995 for the benefit of the residents of the village. The petitioner purchased the property situated in the southern side of the pathway in question and one Lakshmanan, Rajendran, Ramakrishnan and Pathirapandi purchased the adjacent portions of the petitioner's land, whereas, the father of the 4th respondent purchased the northern side of the pathway in question and encroached the pathway in question. Hence, the said Pathirapandi filed O.S.No.239 of 1999 seeking permanent injunction in respect of the said pathway, before the Principal District Sessions Court, Thoothukudi and the same was decreed by judgment and decree dated 13.08.2001 and on appeal, it was also confirmed by the appellate authority by judgment and decree dated 09.12.2003, against which, S.A.(MD)No.1178 of 2004 was filed before this Court. Pending the Second Appeal, the 4th respondent



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purchased the property of the said Pathirapandi. The Second Appeal was disposed of on 19.11.2020 on the basis of the compromise entered between the parties. Taking advantage of the possession of lands on either side of the pathway in question, the 4th respondent encroached the pathway in question. Hence, the petitioner made a representation dated 14.07.2022 seeking removal of the aforesaid encroachment made by the 4th respondent. Pursuant to the same, the 1st respondent vide proceedings dated 29.07.2022 addressed the 3rd respondent, directed to take appropriate action to mutate the records in respect of the pathway in question. Thereafter, no action was taken. Hence, this Writ Petition.

5.The learned Government Advocate for the respondents 1 to 3, on instructions, submitted that the representation of the petitioner dated 14.07.2022 would be considered on merits and appropriate action would be taken by the authorities concerned for removal of the encroachment, if any, in the pathway in question by following due process of law, within a time frame.



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6. In view of the above, without going into the merits of the case, this Court directs the authorities concerned to consider the representation of the petitioner dated 14.07.2022 and pass appropriate orders on merits and in accordance with law. If there is any encroachment in the pathway in question, 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 twelve (12) weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition stands disposed of. No costs.

[R.M.D., J.] & [J.S.N.P., J.]
02.12.2022

Index : Yes / No

Internet : Yes / No

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To

1. The District Collector,
Thoothukudi District, Thoothukudi.

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3. The Tahsildar,
Thoothukudi.

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