



WEB COPY



WP No. 2737 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2023

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Petition No. 2737 of 2023
and
WMP.No.2846 of 2023

1. T. Sampooranam
2. O.K.T. Kannan

.. Petitioners

Versus

1. The District Collector
Collectorate
Erode-638 011
Erode District.

2. The Revenue Tahsildar
Gobichettipalayam Taluk
Erode District.

3. P.R. Jaganathan

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 and 2 to remove the encroachments made by the 3rd respondent in and over the plan marked 100 years old 'Nilaviyal Cart track' measuring 36 cents (0.14.5 Hrs) in S.F.No.421/5, Kugalur Village, Gobichettipalayam Taluk, Erode District, which is a Government land as per RSO 26 (15), by considering their representation dated 21.12.2022.

For Petitioners : Mr. N. Manoharan

For Respondents : Mr. A. Selvendran

Special Government Pleader for RR1 & 2



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ORDER

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

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Heard Mr. N. Manoharan, learned counsel for the petitioners and Mr.A.Selvendran who accepts notice on behalf of the Respondents 1 and 2.

2. The relief sought in this Writ Petition is to issue a Writ of Mandamus directing the Respondents 1 and 2 to remove the encroachment made by the 3rd respondent in the land comprised in S.F.No.421/5, measuring 36 cents (0.14.5 Hrs) in Kugalur Village, Gobichettipalayam Taluk, Erode District, which is a Government land as per Revenue Standing Order (RSO) 26 (15) , by considering the petitioners' representation dated 21.12.2022.

3. The petitioners are residents of Kugalur Village where they own lands measuring an extent of 12 acres in S.F. Nos. 416, 417 and 422. According to the petitioners, several years ago, a Nilavayal Cart Track (pathway) was formed in the land in S.F. No. 421/5 and it is being used by the petitioners and others in their Village to reach the Kuttaikadu Bus Stop, Kugalur Main Road. It is further stated that this land is clearly described as Cart Track in the Field Measurement Map as well as the "A" Register maintained by the Revenue Department. While facts are so, the third



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respondent purchased the adjacent land in Survey No.421/2 by a registered sale deed dated 12.11.2014 and after such purchase, he had encroached the cart track and enclosed it along with the lands purchased by him. By reason of such encroachment made by the third respondent, the petitioners and others could not use the cart track to have access to the lands abutting the cart track and their ingress and egress have been affected. Therefore, the petitioners submitted a representation dated 21.12.2022 to the respondents 1 and 2 to remove the encroachment made by the third respondent, but no action has been taken till date. Therefore, the petitioner is before this court with the present writ petition.

4. The learned counsel for the Petitioners reiterated the averments made in the affidavit filed in support of the writ petition and submitted that due to the encroachment made by the third respondent, the right of the petitioners and other Villagers in the Village has adversely been affected and they could not use the cart track, as before. Therefore, the learned counsel for the petitioners prayed for issuing appropriate direction to the second respondent to consider the representation dated 21.12.2022 of the petitioners and to pass orders thereon on merits.



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5. The learned Special Government Pleader for the respondents has no serious objection for issuing a direction to the second respondent to consider the representation dated 22.12.2022 of the petitioners.

6. Considering the factual matrix of the matter, without expressing any opinion on the merits of the case, the second respondent is directed to consider the representation dated 22.12.2022 of the petitioners, afford an opportunity of hearing to them as well as the third respondent and thereafter pass an order on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that if there is any encroachment as complained by the petitioners, the same shall be removed by following the procedures contemplated under law.

7. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

[R.M.D., J.]

[M.S.Q., J.]

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Index : Yes / No
Internet: Yes / No
arr/rsh



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To

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