



W.P.No.4693 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR
AND
THE HONOURABLE MR. JUSTICE K. RAJASEKAR

W.P. No.4693 of 2019

M.Y.Abdul Samath

... Petitioner

Vs.

1.The District Collector,
Nilgiris District,
Ooty – 643 001.

2.The Revenue Divisional Officer,
Coonoor, Nilgiris.

3.The Thasildar,
Kothagiri,
Nilgiris.

4.The Executive Officer,
Jagathala Selection Grade Town Panchayat,
Aruvankadu, Nilgiris District.

5.P.Sathyamurthy

6.Regis Francis

7.Jayalakshmi Munnusamy

8.Balasubramaniam

... Respondents



W.P.No.4693 of 2019

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, by issuing a suitable direction directing the respondents 1 to 4 to initiate speedy action to remove the encroachment made by the respondents 5 to 8 and to create the road for free use of the public, consequent to the letter of the 4th respondent herein Na.Ka.No.126/2018 dated 11.12.2018 within a prescribed time limit.

For Petitioner	:	No appearance
For R1 to R3	:	Mr.A.Selvendran Special Government Pleader
For R4	:	Mr.Jayaprakash Narayanan.V
For R5 and R6	:	Mr.D.Krishna Pradeep
For R7	:	Mr.Abdul Samata for Mr.J.R.Prabhakaran
For R8	:	Tapal returned

ORDER

(Order of the Court was made by S.S. SUNDAR, J.)

(1)The writ petition is filed for issuance of a writ of mandamus to direct respondents 1 to 4 to initiate speedy action to remove encroachment made by respondents 5 to 8 and to create a road for free use of public consequent to the letter of 4th respondent dated 11.12.2018.



W.P.No.4693 of 2019

(2)When the matter is called, there is no representation on behalf of the petitioner.

(3)In the letter dated 11.12.2018, the Executive Officer of Jagathala Town Panchayat has requested the Tahsildar/3rd respondent about the encroachment in the pathway upto 30 metres distance in Ward No.15, Jagathala Town Panchayat. In the said letter, it is also stated that the said area was not surveyed in order to remove the encroachment.

(4)In the counter affidavit filed by sixth respondent, it is stated that the Executive Officer of Jagathala Town Panchayat surveyed the land on 22.12.2005 and found that the property in possession of sixth respondent is only within his patta land and the revenue officials, after verification of boundaries, fixed the survey stone in the area including the sixth respondent's property. It is also stated by the sixth respondent that the sixth respondent along with his wife filed a suit in OS.No.17/2006 on the file of District Munsif Court, Coonoor, seeking permanent injunction and the said suit was decreed on 23.03.2011. Stating that there was no appeal filed against the said judgment and decree, learned counsel appearing for the 6th respondent states that the writ petition may be dismissed.



W.P.No.4693 of 2019

WEB COURT

(5) The Tahsildar, 3rd respondent has also filed a counter affidavit referring to the joint inspection and reported that S.No.56/3A1A of Jagathala-I Village is a patta land and respondents 5 to 8 have constructed their houses only in their respective own lands. The 3rd respondent therefore, asserted that there is no encroachment as alleged by the petitioner.

(6) In view of the factual position alleged and seen from the counter affidavits, this Court finds no answer from petitioner's affidavit or documents to show that there is any encroachment in the road portion.

(7) Considering the facts and circumstances, this Court finds no merits in the writ petition. Hence, the writ petition stands **dismissed**. No costs.

[SSSRJ] [KRSJ]
07.07.2023

AP

Internet : Yes

Index : Yes / No

To

1. The District Collector,
Nilgiris District,



W.P.No.4693 of 2019

Ooty – 643 001.

WEB COPY

- 2.The Revenue Divisional Officer,
Coonoor, Nilgiris.
- 3.The Thasildar,
Kothagiri,
Nilgiris.
- 4.The Executive Officer,
Jagathala Selection Grade Town Panchayat,
Aruvankadu, Nilgiris District.



WEB COPY



W.P.No.4693 of 2019

S.S. SUNDAR, J.
and
K. RAJASEKAR, J.

AP

W.P. No.4693 of 2019



WEB COPY



W.P.No.4693 of 2019

07.07.2023