



WEB COPY



W.P. No.5879 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2023

CORAM:

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN
and
THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.P. No.5879 of 2020

P. Kumar

Petitioner

v

- 1 The District Collector
Salem District, Salem
- 2 The District Revenue Officer
Salem District, Salem
- 3 The Revenue Divisional Officer
Attur, Salem District
- 4 The Tahsildar
Taluk Office
Attur, Salem District
- 5 The Block Development Officer
Panchayat Union
Thalaivasal, Salem District
- 6 P. Natesan
- 7 P. Arumugam
- 8 M. Selvaraj
- 9 M. Arumugam

Respondents



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Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 5 to take immediate steps to remove the encroachment made by the respondents 6 to 9 to an extent of 0.0032.5 sq. metre in northern S.No.248/6, Thiyananur Village, Attur Taluk, Salem District, which is classified as public pathway (santhu).

For petitioner	Mr. P.P. Shanmugasundaram
For RR 1 to 5	Mr. A. Selvendran
	Special Government Pleader
RR 6 to 9	Name printed in cause list – No appearance

ORDER

(made by S. VAIDYANATHAN, J.)

This writ petition is filed seeking removal of encroachment made by the private respondents to an extent of 0.0032.5 sq.m. in northern S.No.248/6, Thiyananur Village, Attur Taluk, Salem District, which is classified as a public pathway (santhu).

2 The petitioner's grievance is that though notices under Sections 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905, were issued on 13.02.2017 and 09.03.2017, respectively, to the private respondents to vacate the extent encroached by them and notwithstanding the direction of the first respondent to the third respondent to remove the encroachment and also despite the direction of even the Additional Chief Secretary/Commissioner of Land Administration, Chennai to the first respondent on the same lines, the encroachment continues.



3 Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the official respondents.

4 Even though a larger extent of land is shown in S.No.248/6, which is classified as a natham land, concededly, there is an encroachment in the public pathway/street and it is also beyond cavil that the authorities at various levels are of the uniform opinion that the encroachment in question has to be removed. Superadded, pertinent it is to point out that the Tahsildar concerned, who is the fourth respondent herein, has addressed a communication dated 14.12.2023 to the learned Government Pleader stating that the President of the Panchayat concerned has issued a notice to the private respondents to remove the encroachment in the survey number in question way back in 2020 itself. This being the admitted position, it is beyond our ken as to what prevents the encroachment from being removed.

5 In the light of the aforesaid undisputed position, we direct the official respondents to remove the encroachment in the lane (street) in S.No.248/6, Thiyananur Village, Attur Taluk, Salem District at the earliest, at any rate, by a fortnight from Pongal festival. In case, the encroachment is not removed within the stipulated time, appropriate action shall be taken against the officials concerned in the light of the order in **N.Sankar v The Principal Secretary,**



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Town and Country Planning, Government of Tamil Nadu and 3 others¹

passed by a Coordinate Bench of this Court, in which, one of us (SVNJ) was a Member. Further, taking note of the mushrooming encroachments, we are constrained to observe that there shall be no encroachment in any form in public pathways, OSR areas, Government poramboke lands, *etc.*

With the above direction and observation, this writ petition stands disposed of, sans costs.

(S.V.N., J.) (K.R.S., J.)
19.12.2023

cad



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