



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 25-07-2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

**W.P.No.12593 of 2018**

Laksminarayanan

...

Petitioner

-vs-

1.The Sub-Collector (Revenue)-cum-  
Sub-Divisional Magistrate,  
Government of Puducherry,  
Karaikal.

2.The Commissioner,  
Karaikal Municipality,  
Karaikal.

3.The Tahsildar,  
Taluk Office,  
Karaikal.

4.The Station House Officer,  
Town Police Station,  
Karaikal.

5.Yamuna

6.Manimegalai

...

Respondents



Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records of the first respondent ending with No.872/SCR/B-3/2018, dated 07.05.2018, and quash the same.

For Petitioner : Mr.I.Kowser Nissar

For Respondents 1 to 4 : Mr.A.Tamilvanan,  
Addl.Govt.Pleader (Puducherry).

For Respondent 5 : M/s.Ganesh & Ganesh

**ORDER**

(By *S.Vaidyanathan,J.*)

Petitioner claims to be the owner of the property in Ward F, Block 8, T.S.No.5, R.S.No.75/3, measuring an extent of 1391 ½ sq.ft. bearing Patta No.1147 in 28, Karaikal Town, Kamarajar Salai, Puducherry. There was an objection by one Yamana, fifth respondent, that roads have been encroached by the petitioner – Lasminarayanan and the sixth respondent – Manimegalai, and the said issue was taken up by the Sub-Collector (Revenue)-cum-Sub-Divisional Magistrate, Karaikal - first respondent, and on issuance of notice to all the parties and hearing them, by the impugned proceedings, the first respondent directed the Commissioner, Karaikal Municipality – second respondent, to clear the disputed pathway, leading towards the residential building in T.S.No.9/3, Karaikal Town, by removal of all obstructions raised across the disputed pathway in North-South direction along T.S.No.9/1 to 9/4 and also



to clear the obstructions cutting across the disputed pathway in T.S.No.9/5 along Hotel Nandha and Reception Hall building in the East-West direction so as to put into use as public pathway with immediate effect. By the said proceedings, the petitioner and the sixth respondent were also restrained from raising any more obstructions across the pathways and the failure whereof would be viewed as public nuisance. The above order was passed on 07.05.2018. Though the petitioner - Lasminarayanan appeared before the authorities and produced records as could be seen from the order, dated 07.05.2018, there was no discussion about the encroachments made by the petitioner in the public pathway. It is only Manimegalai, who sought time for production of records and, aggrieved over the order passed by the Sub-Collector-cum-Sub-Divisional Magistrate, dated 07.05.2018, Manimegalai filed W.P.No.12578 of 2018 and the same got dismissed for default. Therefore, in so far as Manimegalai is concerned, the issue has attained finality and she has not taken any steps either to recall the order by filing a petition or to review the order. As there is no averment against the petitioner – Lasminarayanan, the authority will have to re-do the exercise and, after going through the records and affording an opportunity of being heard to both the petitioner and Yamuna - fifth respondent, take a decision within a period of two weeks days from the date of appearance of the parties. It is open for the parties to file additional statements and documents before the authority concerned within a period of one week from the date of receipt of a copy of this order and, on receipt of the same and taking into



consideration the objections of the parties, if any, the authority shall pass orders on merit within a period of two weeks thereafter.

2. We make it clear that in so far as the finding against Manimegalai has been affirmed by this Court by dismissal of the Writ Petition for default, unless the said order is restored and a decision is passed on merit, we hold that there is a finding on merit on Manimegalai and she need not be heard at all by the authority.

3. Writ Petition is disposed of accordingly. No costs. Consequently, the connected W.M.P.No.14749 of 2018 is closed.

Index : Yes/No  
Internet : Yes/No  
dixit

(S.V.N.,J.) (K.R.S.,J.)  
25-07-2023

To

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6/6



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