



W.P.No.17039 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

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Kannupaiyan

.. Petitioner

Vs

- 1 The District Collector
District Collector Office
Salem.
- 2 The District Revenue officer
Salem, Salem District.
- 3 The Revenue Divisional Officer
Salem, Salem District.
- 4 The Tahsildar
Salem South
Salem District.
- 5 The Village Administrative Officer
Kalparrapatti Village
Salem District.



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6 The Forest officer
Servarayan South
Salem District.

7 Rajendran
8 Kamaraj
9 Papathi
10 Chellandi
11 Sithuraj
12 Chinnasamy
13 Kuppanan
14 Thangaraj
15 Palanisamy
16 N.Rajendran

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing respondents 1 to 5 to demarcate the Public Pathway in S.F.No.7/15 of Kalparaipatti Village, Salem South Taluk, Salem District and mark the boundaries and clear the encroachments made by respondents 7 to 16 and also direct the 6th respondent not to cut down the 15 teak trees which are in the same S.F.No.7/15 and also to consider petitioner's representation made on 05.05.2023 and act within a stipulated time.

For the Petitioner : Mr.I.M.Siddartha Ramarajan

For the Respondents : Mr.P.Muthukumar
State Government Pleader
for respondents 1 to 6



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ORDER

(Order of the court was made by the Hon'ble Chief Justice)

Heard Mr.I.M.Siddartha Ramarajan, learned counsel for the petitioner and Mr.P.Muthukumar, learned State Government Pleader, appearing on behalf of respondents 1 to 6.

2. The petitioner seeks a direction against respondents 1 to 5 to demarcate the public pathway in S.F.No.7/15 of Kalparaipatti Village, Salem South Taluk, Salem District, and to further direct the sixth respondent not to cut down the 15 teak trees.

3. According to learned counsel for the petitioner, the public pathway having width of four metres exists and in the four metres pathway, teak trees also exist. Respondents 7 to 16 gave an application to the forest department for cutting the trees. The forest department has marked those trees.



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4. Learned counsel for the petitioner further submits that even as per the information supplied under the Right to Information Act, it is clear that the four metres pathway exists. Respondents 7 to 16 do not have any right to obstruct the petitioner and the villagers from using the pathway.

5. Learned State Government Pleader, on the basis of the report of the Tahsildar, submits that the Ryotwari Patta was granted in respect of the land in Survey No.7/15 to an extent of 0.27.0 hectares in favour of Manickam and nine others. A three metres width cart pathway exists as per the field measurement book. The pathway is used for public purpose and there is no encroachment. The teak trees do not exist on the pathway.

6. In the present case, there is a word against word. The Tahsildar has given a report that the public pathway is of three metres width and the teak trees do not exist in the pathway. The Ryotwari Patta was granted in respect of the land in S.No.7/15 to the Manickam and nine others.



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7. There is no reason to disbelieve the report of the Tahsildar dated 8.6.2023.

8. Be that as it may, if the petitioner contends otherwise, then it would be a case of disputed questions of fact and the same cannot be gone into in the writ jurisdiction. The petitioner is at liberty to take appropriate proceedings before the appropriate forum, as may be permissible in law.

The writ petition is disposed of accordingly. There will be no order as to costs.

(S.V.G., CJ.)

(P.D.A., J.)

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Index : Yes/No
Neutral Citation : Yes/No
sasi



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