



W.P.No.29131 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2023

CORAM :

**THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ**

W.P.No.29131 of 2023

P.Vijayanathan

... Petitioner

Vs.

1.The District Collector,
Villupuram District.

2.The District Revenue Officer,
Office of the District Revenue Officer,
Villupuram.

3.The Tahsildar,
Vikravandi Taluk,
Villupuram District.

4.The Assistant Director of Survey
and Land Records,
Collectorate Master Plan Complex,
Villupuram.

5.Rajamani

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus, directing the respondents 1 to 4 to consider the representation of the petitioner dated 09.02.2023 and to take necessary action to remove the encroachment made by the fifth respondent in the lane situated in S.No.222/16 of Nemur Village, Vikravandi Taluk, Villupuram District.



W.P.No.29131 of 2023

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For petitioner : Mr.T.Saikrishnan
For respondents : Mr.A.Selvendran
Special Government Pleader for R1 to R4

ORDER

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

The prayer made in this writ petition is to issue a Writ of Mandamus, directing the respondents 1 to 4 to consider the representation of the petitioner dated 09.02.2023 and take necessary action to remove the encroachment made by the fifth respondent in the lane situated in S.No.222/16 of Nemur Village, Vravandi Taluk, Villupuram District.

2.The case of the petitioner is that his father Pattabu S/o.Arunagiri and his brother Muthu S/o.Arunagiri are the absolute owners of the lands in Natham S.No.222/15 (extent of 0.94 ares) and in Natham S.No.222/17 (extent of 1.50 ares) by virtue of natham patta granted in their favour. After the death of the petitioner's father, the petitioner's name was included in the said patta and he constructed a thatched house in the lands in S.No.222/15 of Nemur village and living therein along with his family members. According to the petitioner, the only access available to his house is the 6.5 feet wide public lane situated in S.No.222/16; the 'A' register specifically mentions the lands in S.No.222/16 as



W.P.No.29131 of 2023

lane which is meant for public use; and the lands in S.No.222/16 divides the lands in S.No.222/15 and the lands in S.No.223. While so, the fifth respondent, whose house is situated in S.No.223 of Nemur village, started constructing a new house, after demolishing the old one, in his lands in S.No.223 under the scheme of PMAY, by encroaching an extent of more than 3 feet of the public lane situated in S.No.222/16, and thereby causing hindrance to the petitioner's access through the said lane. Pointing out the same, the petitioner made an application to the fourth respondent seeking to survey and demarcate the lands. Accordingly, the lands were surveyed and demarcated, as per which, it was found that the fifth respondent had encroached the public lane and made illegal construction. Based on the same, the construction was stopped by the authorities concerned. When the things stood thus, during February, 2023, the fifth respondent again started construction without obtaining any clearance, which compelled the petitioner to make a representation dated 09.02.2023 to the respondents 1 to 4 requesting to remove the encroachment made by the fifth respondent. Upon receipt of the same, the third respondent vide communication dated 15.02.2023, directed the Revenue Inspector and the Land Surveyor of Kanjanur and the Village Administrative Officer, Nemur Village, to survey and demarcate the lands and file a report. However, nothing progressed thereafter. Hence, this writ petition came to be filed by the petitioner.



W.P.No.29131 of 2023

3.Today, when the matter was taken up for consideration, Mr.A.Selvendran, the learned Special Government Pleader appearing for the respondents 1 to 4, produced a copy of the communication dated 07.10.2023 sent by the Tahsildar, Vikravandi Taluk, wherein, based on the report of the Revenue Inspector of Kanjanur, dated 07.10.2023, it is *inter alia* stated that S.No.223/1 was purchased by the fifth respondent viz., Rajamani and now, he has built a house under the Prime Minister Yojana Scheme and that, there is no encroachment on the alley in the adjoining field of survey number 222/16.

4.The aforesaid averments made in the communication sent by the third respondent, Tahsildar, Vikravandi Taluk, have been seriously refuted by the learned counsel for the petitioner. According to him, the survey has not been properly done by the authorities.

5.By way of reply, the learned Special Government Pleader appearing for the respondents 1 to 4 submitted that the respondent authorities will conduct the survey afresh, after issuing notice to all the necessary parties and thereafter, take appropriate action, as per law.

6.In view of the above, this Court directs the respondent authorities to conduct survey afresh in respect of the lands in S.No.222/16 of Nemur Village,



W.P.No.29131 of 2023

Vikravandi Taluk, Villupuram District, after issuing due notice to the petitioner, fifth respondent as well as any other interested parties and pass appropriate orders, on merits and in accordance with the law. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. It is needless to state that if there is any encroachment in the public property, the same shall be removed, after following due process of law.

7. With the above directions, this writ petition stands disposed of. There is no order as to costs.

[R.M.D,J.] [M.S.Q, J.]
11.10.2023

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Index: Yes / No.

Speaking order/ Non-speaking order

Neutral Citation: Yes / No.

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W.P.No.29131 of 2023

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