



W.P.No.31408 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2023

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.31408 of 2023

Ganesan

.. Petitioner

VS

- 1.The District Collector,
Salem District,
Salem.
- 2.The Revenue Divisional Officer,
Sankagiri Division,
Sankagiri,
Salem District.
- 3.The Tahsildar,
Sankagiri Taluk,
Salem District.
- 4.The Block Development Officer,
Magudanchavadi Block,
Sankagiri Taluk,
Salem District.



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5.The Panchayat President,
Ernapuram Village Panchayat,
Magudanchavadi Post,
Sankagiri Taluk,
Salem – 657 103.

6.The Headmaster,
Panchayat Union Primary School,
Magudanchavadi,
Salem District.

7.Singaravelan

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the first respondent to remove the encroachments put up by the respondents 5, 6 and 7 in the Government poramboke Cart Track comprised in Survey No.208, measuring an extent of 0.79.5 Hectares in Ernapuram Village, Sankagiri Taluk, Salem District.

For the Petitioner : Mr.A.E.Ravi Chandran

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

ORDER

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

We have heard Mr.A.E.Ravi Chandran, learned counsel for the petitioner and Mr.P.Muthukumar, learned State Government Pleader



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for respondents 1 to 6.
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2. Learned counsel for the petitioner submits that as per G.O.(Ms) No.540, Revenue [LD6(2)] Department, dated 4.12.2014, if an encroachment exists, then the Committee is required to consider the grievance for removal of the encroachment. The FMB sketch shows existence of pathway/cart track. The authorities are not taking cognizance of the same.

3. Learned counsel for the petitioner further submits that the petitioner had filed a civil suit, bearing O.S.No.134 of 2011 on the file of the District Munsif, Sankagiri, for declaration that the petitioner is entitled to enter into the cart passage mentioned as suit property and consequential permanent injunction restraining the defendants therein from in any way disturbing the entry of the petitioner into the passage by constructing a compound wall or removing the passage and in any manner preventing the entry of the petitioner.



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4. The petitioner is only relying upon G.O.(Ms) No.540, Revenue [LD6(2)] Department, dated 4.12.2014. Under the said government order, various Committees have been constituted and procedure for eviction of encroachments has been stipulated.

5. The judgment and decree of the civil court dismissing the suit (*O.S.No.134 of 2011 on the file of the District Munsif Court, Sankagiri*) of the petitioner exists today. In fact, it is for the petitioner to take recourse by filing an appeal or otherwise against the judgment and decree of the civil court dismissing the suit.

6. As the judgment and decree of the civil court with regard to the same relief stands, no relief can be granted in favour of the petitioner in the present writ petition. It is open to the petitioner to take such further recourse against the judgment and decree passed by the civil court.



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7. With these observations, the writ petition is disposed of.

There shall be no order as to costs.

(S.V.G., CJ.)

(D.B.C., J.)

21.12.2023

Index : Yes/No
Neutral Citation : Yes/No
bbr

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