



W.P.No.17857 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2023

CORAM :

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

AND

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

W.P.No.17857 of 2017

K.Loganathan

.. Petitioner

Vs

1.The District Collector,
Office of District Collectorate,
Namakkal District,
Namakkal.

2.The Revenue Divisional Officer,
Trichengode,
Namakkal District.

3.The Tahsildar,
Trichengode Taluk,
Trichengode.

4.The Tahsildar,
Komarapalayam Taluk,
Komarapalayam.

5.K.S.Giribala

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents to take appropriate action in respect of obstruction made by the fifth respondent in Survey No.110/1 in Sowthapuram Village, Komarapalayam Taluk, Namakkal District by considering the petitioner representations dated 16.11.2015, 07.12.2015, 30.05.2016, 04.07.2016 and 08.08.2016 and thereby restore the water channel in its original position.

For the Petitioner : Mr.R.Marudhachalamurthy

For the Respondents : Mr.K.M.D.Muhilan
Addl. Government Pleader
for respondents 1 to 4

: Mr.N.Manokaran
for respondent No.5

ORDER

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

Heard Mr.R.Marudhachalamurthy, learned counsel for the petitioner; Mr.K.M.D.Muhilan, learned Additional Government Pleader for respondents 1 to 4 and Mr.N.Manokaran, learned counsel for the fifth respondent.

2. The petitioner seeks direction for restoration of Odai.



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3. The affidavit is filed by the Tahsildar, Kumarapalayam (respondent No.4). In the said affidavit, it is stated that from the village plan prepared during the year 1974 which was re-drawn from village map of 1919 and village "A" register prepared during supplemental survey in 1984, it is concluded that only foot path has been passing through the assigned land even from the period prior to assignment of the land in the year 1972. It is further stated that foot path has been restored and the encroachment in the pathway has been removed. It is further stated in the affidavit that the fifth respondent has to maintain the foot path in Survey No.110/1 for use by the villagers.

4. The contention of the fifth respondent is that a civil suit is filed and the same is pending.

5. The parties certainly would be governed by the decision that would be given in the civil suit. However, till that time, if the foot path is in existence, as contended by the fourth respondent, the fourth respondent shall see to it that the same is not encroached upon.



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6. The present order would be subject to the final decision that would be given by the Court in the civil suit.

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

(S.V.G., CJ.)

(P.D.A., J.)

13.06.2023

Index : Yes/No
Neutral Citation : Yes/No
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THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESAVALU, J.

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