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W.P.No.33437 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

CORAM :

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ**

Writ Petition No.33437 of 2023

G. Kannan

.. Petitioner

Versus

1. The District Collector,
Salem, Salem District.
2. The District Revenue Officer,
Mettur Taluk, Salem,
Salem District.
3. The Revenue Divisional Officer,
RDO Office, Mettur,
Salem District.
4. The Tashildar,
Mettur Taluk, Salem,
Salem District.
5. Block Development Officer,
Mecheri BDO Office,
Mecheri, Salem District.
6. The Village Administrative Officer,
Pallipatti Village,
Mettur Taluk,
Salem District.
7. V.Goindaraj
8. C.Raman
9. C.Venkat
10. C.Natarajan
11. Chinnamayili
12. Anbazhagan
13. Raja

.. Respondents



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Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 6 to remove the illegal encroachment made by the respondents 7 to 13 comprised in S.No.38 & 49/1 situated at Thattiyankadu, Koonandiyur Post, Mettur Taluk, Salem District.

For Petitioner : Mr.K.Prabhakaran

For R1 to R6 : Mr.P.Muthukumar
Government Pleader

ORDER

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

This writ petition has been filed by the petitioner seeking a direction to the respondents 1 to 6 to remove the illegal encroachment made by the respondents 7 to 13 comprised in S.No.38 & 49/1 situated at Thattiyankadu, Koonandiyur Post, Mettur Taluk, Salem District.

2.According to the petitioner, his father viz., Govindaraj is the absolute owner of the property measuring 1.45 hectare comprised in S.No.39/1B situated at Thattaiyankadu, Koonandiyur Post, Mettur Taluk, Salem District. The adjacent lands in survey numbers i.e., S.Nos.38 and 49/1 belong to the Government and the same have been classified as Padhai Poramboke in the revenue records. The said pathway has been used by the petitioner and his ancestors for several decades for the ingress and egress into the petitioner's



house and his land. While so, the seventh respondent and his father have encroached the said pathway and obstructed the petitioner to use the same for entering into his house. In the circumstances, the father of the petitioner filed a suit in OS.No.255/2010 and the same was decreed on 03.01.2012, but again in the year 2020, the respondents 7 to 9 have encroached the said land by cultivating agricultural products which has greatly affected the access of the petitioner to enter into his house. In this connection, the petitioner made a representation to the respondents 1 to 6 for removal of encroachment from the said pathway belonging to the Government, but the same has evoked no response. While this being so, again in the year 2021, the respondents 11 to 13 have forcibly encroached the said pathway by constructing hut and goat shed and also by cultivation of crops. Therefore, the petitioner sent another representation dated 10.04.2023 to the respondents 1 to 6 for removal of encroachment, which was forwarded by the second respondent to the fourth respondent for taking appropriate action, but the same is kept pending without any consideration till date. Finding no other option, the petitioner has come up with this writ petition for the aforesaid relief.

3.The learned counsel for the petitioner submitted that pointing out to the encroachment made by the respondents 7 to 13, the petitioner has made



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representation to the official respondents requesting to take action for removal of the same, however, there is no progress in this regard. Hence, the learned counsel prayed this Court to issue appropriate direction to the respondent authorities by considering the petitioner's representation dated 10.04.2023.

4.On the other hand, the learned Government Pleader appearing for the respondents 1 to 6 submitted that the respondent authorities would consider the representation of the petitioner and pass appropriate orders on merits, within a time frame to be stipulated by this Court.

5.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court, without going into the merits of the case, directs the respondent authorities to consider the petitioner's representation dated 10.04.2023, if not considered earlier, and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing to the petitioner, respondents 7 to 13 as well as any other interested parties, 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 government land, as alleged by the petitioner, the same shall be removed after following due process of law.



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6. With the aforesaid directions, this writ petition stands disposed of. No costs.

[R.M.D., J.] [M.S.Q., J.]
30.11.2023

Index : Yes / No
Internet : Yes / No
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To

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