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W.P.No.33744 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.33744 of 2023

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Versus

.. Petitioner

1. The State of Tamilnadu,
Rep. by its Secretary to Government,
Rural Development & Panchayat Raj Department,
Fort St. George, Chennai -9.
2. The Director of Rural Development &
Panchayat Raj Department,
Panagal Building, Saidapet,
Chennai - 15.
3. The District Collector,
Erode District, Erode.
4. The Block Development Officer (B.P),
Ammapettai Panchayat Union,
Ammapettai, Erode District.
5. The Tahsildar,
Anthiyur Taluk Office,
Anthiyur.
6. The Inspector of Police,
Vellitrippur Police Station,
Vellitrippur, Erode District.



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7. Duraisamy

8. Kapoor

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 4 & 5 to remove the encroachment made by the respondents 7 & 8 in R.S.175, Public road of the Komarayanur Panchayat, Paliyanthanda Village, Anthiyur Taluk, Erode District as per the proceedings of the fourth respondent in Na.Ka.No.1426/2016/A2.

For Petitioner : Mr.V.Elangovan
For R1 to R5 : Mr.P.Muthukumar
Government Pleader
For R6 : Mr.Muniapparaj,
Additional Public Prosecutor

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 4 and 5 to remove the encroachment made by the respondents 7 and 8 in R.S.No.175, Public road of the Komarayanur Panchayat, Paliyanthanda Village, Anthiyur Taluk, Erode District, as per the proceedings of the fourth respondent in Na.Ka.No.1426/2016/A2.

2.According to the petitioner, he is the owner of the land in

R.S.No.173/2, Komarayanur Village, Anthiyur Taluk to the extent of 1.73.00

<https://www.mhc.tn.gov.in/judis>



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Hectare. To access his land, the petitioner has to pass through the road situated at East West from main road, which is measuring 823 ft of length and 20ft. of breath. The respondents 6 and 7 and the adjacent landowners also have to access their lands through the said road. While so, the respondents 7 and 8 have encroached the said road by putting up a hut. In this connection, the petitioner has filed a suit in O.S.No.167 of 2016 before the Principal District Munsif Court, Bhavani against the Revenue Officials, Panchayat President, 8th respondent and others, for the relief of permanent injunction and the suit was decreed exparte on 22.09.2016. Based on the decree, the petitioner made a representation dated 28.11.2016 to the fourth respondent for removal of encroachment in the public road, pursuant to which the fourth respondent has forwarded the representation made by the petitioner to the fifth respondent, but the same is kept pending without any consideration till date. Therefore, this writ petition.

3.The learned counsel for the petitioner submitted that pointing out to the glaring encroachment made by the respondents 7 and 8, the petitioner made representation dated 28.11.2016 to the official respondents requesting to take action for removal of the same, but the representation evoked no response. Therefore, the learned counsel prayed this Court to issue appropriate direction



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to the respondent authorities by considering the petitioner's representation dated 28.11.2016.

4.The learned Government Pleader appearing for the respondents 1 to 5 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 expressing any opinion on the merits of the case, directs the respondent authorities to consider the petitioner's representation dated 28.11.2016, 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 & 8 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 public property 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

1. The Secretary to Government,
The State of Tamilnadu,
Rural Development & Panchayat Raj Department,
Fort St. George, Chennai -9.
2. The Director of Rural Development &
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