



WEB COPY



WP No. 28489 of 2018

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 15.02.2023

CORAM :

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

Writ Petition No. 28489 of 2018

1. P.Mahalingam  
2. M.Subramaniam  
3.R.Murugesan  
4.M.Senthilkumar  
Petitioners

..

Versus

1. The District Collector  
Erode District, Erode  
  
2. The Revenue Divisional Officer  
RDO Office, Erode  
Erode District.  
  
3. M.Chinnusamy  
4. Karthi  
5. Chidambaram  
6. K.R.Karuppaiyan  
7. K.Subramani  
8. M.Thangavel

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to consider and take appropriate action on petitioners' representation dated 14.09.2018 and restore the impugned 'Nilaviyal Kalpathai' to its original position in R.S.No.155/1 and 160/1 of Kolathuppalayam 'A' Village, Kodumudi Taluk, Erode District at the earliest.

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



WP No. 28489 of 2018

For Petitioners : Mr. V.S. Kesavan  
For R1 & R2 : Mr. A. Selvendran  
Special Government Pleader

**ORDER**

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

This writ petition has been filed by the petitioners seeking a direction to the first respondent to consider their representation dated 14.09.2018 and to take action to restore the 'Nilaviyal Kalpathai' situated in R.S.No.155/1 and 160/1 of Kolathuppalayam 'A' Village, Kodumudi Taluk, Erode District to its original position.

2. It is stated by the petitioners that they own the lands in R.S. Nos.35/1, 36, 34/2 in Kolathupalayam "A" Village in Erode District where they are carrying out agricultural operations. According to the petitioners, there is a common cart track in R.S. No. 155/1, which branches out from Arampalayam to Ayapparappu and joins the Nilavial Kal Pathai in R.S. No. 160/1. It is further stated that the common cart track runs through their patta lands and that of the other adjacent land owners, which is being used by them for their ingress and egress to reach their respective lands. It is also stated that even though the pathway runs through the patta lands of the petitioners, they cannot assert any ownership over it, but they along with other Villagers can use the



WP No. 28489 of 2018

pathway for their ingress and egress which cannot be prevented by any one. It is further stated by the petitioners that the *Nilaviyal Kalpathai* in the land in R.S. No. 160/1 stands in the name of Malayanna Gounder, Muthusamy Gounder and others in the revenue records for a long time. After the death of the above said Malayanna Gounder and others, the respondents 3 to 8, who are their legal heirs, have caused damage to the *Nilaviyal Kalpathai* on 25.08.2018 by digging 8 feet ditch using JCB Machines. By reason of such act on the part of the respondents 3 to 8, the petitioners could not reach their lands. In this context, the petitioners have submitted a representation dated 14.09.2018, but so far, no action has been taken. Therefore, the petitioners have filed this writ petition for the relief stated supra.

3. The learned counsel for the petitioners submitted that the pathway is meant to be used by the public for their ingress and egress and the respondents 3 to 8 cannot have any right to cause encroachment over the same. By reason of the act of the respondents 3 to 8 in digging the earth upto 8 feet, the petitioners find it very difficult to reach their lands. Even the representation dated 14.09.2018 submitted to the respondents 1 and 2 did not yield the desired result. Therefore, the learned counsel for the petitioners prayed for issuing appropriate direction to the second respondent to consider the



WP No. 28489 of 2018

representation dated 14.09.2018 of the petitioners and to pass orders thereon on merits within a specified time limit.

4. The learned Special Government Pleader appearing for the respondents 1 & 2 produced a copy of the communication in Na.Ka.No.538/2022/A2 dated 16.02.2023 of the second respondent, wherein, it is stated that encroachments have been made in the lands comprised in R.S.Nos.155/1 and 160/1 of Kolathuppalayam 'A' Village, Kodumudi Taluk, Erode District. It is further stated in the said communication that the second respondent had already instructed the Revenue Tahsildar, Kodumudi to initiate appropriate action to remove the encroachments by invoking the provisions of the Tamil Nadu Land Encroachment Act. Therefore, by pointing out the above communication dated 16.02.2023 of the second respondent, the learned Special Government Pleader submitted that time may be granted to enable the authorities concerned to remove encroachments.

5. In the light of the communication dated 16.02.2023 of the second respondent and by considering the submission made by the learned Special Government Pleader appearing for the respondents 1 and 2, twelve weeks time is hereby granted to enable the second respondent to take appropriate action to



WP No. 28489 of 2018

remove the encroachments made in the lands in question, after affording opportunity of hearing to the concerned parties and by following the due process of law.

6. With the aforesaid direction, this writ petition stands disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [M.S.Q., J.]  
15.02.2023

Index : Yes / No  
Internet : Yes / No  
av/rsh

To

1. The District Collector,  
Erode District, Erode.
2. The Revenue Divisional Officer,  
RDO Office, Erode, Erode District.



WEB COPY



WP No. 28489 of 2018

**R. MAHADEVAN, J.**  
**AND**  
**MOHAMMED SHAFFIQ, J.**

av/rsh

WP No. 28489 of 2018

15.02.2023