



W.P(MD)No.1520 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 31.08.2023

CORAM :

**THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
The HON'BLE MR.JUSTICE C.KUMARAPPAN**

W.P(MD)No.1520 of 2022

A.Muthurakku

... Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Revenue Divisional Officer,
The Revenue Divisional Office,
Sivagangai.

3.The Block Development Officer,
Thiruppuvanam Panchayat Union,
Thiruppuvanam Taluk,
Sivagangai District.

4.The Thasildhar,
Thiruppuvanam Taluk,
Sivagangai District.

5.P.Ramakaran

.. Respondents



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PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus, directing the respondents 1 to 4, to lay a permanent road in Survey Nos.46/20, 40/24, 46/25, 46/26, 46/31, 46/31A1 in Athikarai Village, Thirupuvanam Taluk, Sivagangai District by removing the encroachment made by the fifth respondent.

For Petitioner :Mr.P.Saravana Kumar

For R-1 , R-2 & R-4 :Mr.P.Thilak Kumar,
Government Pleader

For R-5 :Mr.K.Dinesh

ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

We have heard Mr.P.Saravana Kumar, learned counsel for the petitioner, Mr.P.Thilak Kumar, learned Government Pleader for respondents 1, 2 and 4 and Mr.K.Dinesh, learned counsel for the fifth respondent.

2. The petitioner alleges encroachment on behalf of the fifth respondent on the road in Survey Nos.46/20, 40/24, 46/25, 46/26, 46/31, 46/31A1 in Athikarai Village, Thirupuvanam Taluk, Sivagangai District.



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3. According to the learned counsel for the fifth respondent and the learned Government Pleader, the land in question is a patta land, whereas the learned counsel for the petitioner submits that even in the sale deeds of those persons, ten feet road is shown. The Revenue Divisional Officer, Sivagangai, has also submitted a report.

4. In case the petitioner was enjoying a right of way in a private land, then that would come within the purview of the easementary right which certainly has to be proved before the civil Court.

5. If the road existed, then certainly the authorities can take steps for maintenance of the said road and for removal of encroachment if any on the alleged road.

6. The petitioner contends that the Revenue Divisional Officer, Sivagangai, has already submitted a report.

7. The District Collector, Sivagangai District ie., the first respondent , shall consider the report of the Revenue Divisional Officer, Sivagangai and



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the stand of the petitioner, respondent No.5 and other interested persons and take decision with regard to the availability of road or otherwise.

8. With these observations, the writ petition stands disposed of.

No Costs.

(S.V.G., CJ.)

(C.K., J.)

31.08.2023

NCC : Yes/No
Index : Yes/No
PM

To:

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The Revenue Divisional Officer,
The Revenue Divisional Office,
Sivagangai.
- 3.The Thasildhar,
Thiruppuvanam Taluk,
Sivagangai District.



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THE HON'BLE CHIEF JUSTICE
and
C.KUMARAPPAN, J.

PM

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