



W.P(MD)No.4031 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2023

CORAM:

**THE HON'BLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HON'BLE MRS JUSTICE L.VICTORIA GOWRI**

**W.P(MD)No.4031 of 2023
and
W.M.P(MD)No.3896 of 2023**

S.Sundarraaj

:Petitioner

.vs.

**1.The District Collector,
Virudhunagar District,
Virudhunagar.**

**2.The Block Development Officer,
Village Panchayat,
Vembakottai Union,
Vembakottai,
Virudhunagar.**

**3.The President,
Mela Ottam Patti Panchayat,
Sivakasi Taluk,
Virudhunagar.**

**4.The Sub-Inspector of Police,
Sattur Town Police Station,
Sattur,
Virudhunagar.**

5. S.Veerasley

: Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to remove the encroachment made by the 5th respondent in the common pathway which is situated at East West side of the Sy.No.91 at Mela Ottam Patti Panchayat, Sivakasi Taluk, Virudhunagar District and thereby direct the respondents to redress our grievance made in petitioner's representation as well as the villagers dated 18.01.2023.

For Petitioner	:M/s.K.R.Shivashankari
For R1 to R4	:Mr.P.Thilakkumar Government Pleader
For R5	: Mr.M.Kannan

O R D E R

Order of the Court was made by R.SUBRAMANIAN, J.

The prayer in the writ petition reads as follows:-

“to direct the respondents to remove the encroachment made by the 5th respondent in the common pathway which is situated at East West side of the Sy.No.91 at Mela Ottam Patti Panchayat, Sivakasi Taluk, Virudhunagar District and thereby direct the respondents to redress our grievance made in



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petitioner's representation as well as the villagers dated 18.01.2023.”

2. The main contention of the petitioner is that the private respondent, viz., the fifth respondent has encroached upon the common pathway which is situated in the East-West side of Survey No.91 at Mela Ottam Patti Panchayat and to direct the respondents to redress the grievance of the petitioner.

3. A perusal of the documents filed by the writ petitioner and by the private respondent would show that the disputed pathway is a common pathway reserved for use among the family members of the fifth respondent. Therefore, it is not a pathway dedicated to the public.

4. Though the learned counsel for the petitioner would vehemently contend that the police had not taken action on the complaint and the revenue officials had not chosen to survey the land despite the repeated representation made by the petitioner, we are unable to entertain the writ petition inasmuch as the dispute is purely of civil nature and the character of the pathway can be decided only on the basis of the evidence.



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5. Sitting under Article 226, we do not think that we could entertain the writ petition espousing the private causes like the one at hand. If the dispute is between the petitioner and the fifth respondent with reference to the land which belongs to the fifth respondent, we do not think that it will be open to us to issue a direction to survey or otherwise. If we do so we will be entering into the disputed title and attempting to resolve the dispute without evidence on record. Hence, we do not entertain this writ petition and the same is, therefore, dismissed. No costs. Consequently, connected miscellaneous petition is closed. Any observation made herein will not affect the claim of the parties before the civil Court.

[R.S.M.,J.] & [L.V.G.,J.]
06.03.2023

Index:Yes/No
Internet:Yes/No
am



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To

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Virudhunagar District,
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Vembakottai,
Virudhunagar.
- 3.The President,
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Sivakasi Taluk,
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R.SUBRAMANIAN, J.

AND

L.VICTORIA GOWRI, J.

am

ORDER MADE IN

W.P(MD)No.4031 of 2023

06.03.2023