



W.P.(MD) No.7894 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.7894 of 2021

and

W.M.P.(MD)No.6026 of 2021

K.Muhamed Yaseen

... Petitioner

-Vs-

- 1.The District Collector,
Collectorate Office, Dindigul.
- 2.The Block Development Officer (Village Panchayat),
Block Development Office, Vathalagundu-624202,
Dindigul District.
- 3.The Tahisldar,
Taluk Office,
Nilakkottai, Dindigul District.

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WEB COPY 4.The President,

Kanavaipatti Village Panchayat,
Kanavaipatti, Dindigul District.

5.M.Parameshwari

6.Jeyakumar

7.A.Muthuraman

8.Dhurai Marippan

9.Ravi

10.Balasubramani

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 4 to remove the encroachments made by the respondents 5 to 10 in public pathway in Survey No.60/1 situated at Kanavaipatti Village (Lenin Street, Gandhi Nagar, Vatlagundu) Nilakkottai Taluk, Dindigul District and to construct a drainage afresh after removing the encroachment and to form a road.

For Petitioner : Mr.D.Senthil

For R1, R3 & R4 : Mr.K.Balasubramani,
Special Government Pleader

For R2 : Mr.A.K.Manikkam

For R5 to R9 : No Appearance

For R10 : Mr.V.S.Kishokkumar

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ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition is filed, seeking issuance of a Writ of Mandamus, to direct the respondents 1 to 4 to remove the encroachments made by the respondents 5 to 10 in public pathway in Survey No.60/1 situated at Kanavaipatti Village (Lenin Street, Gandhi Nagar, Vatlagundu), Nilakkottai Taluk, Dindigul District and to construct a drainage afresh, after removing the encroachment and to form a road.

2.According to the petitioner, he purchased the house property in Survey No.60/1B at Kanavaipatti Village (Lenin Street, Gandhi Nagar, Vatlagundu), Nilakkottai Taluk, Dindigul District, wherein the respondents 5 to 10 are also having residential houses and encroached the common pathway. Therefore, the petitioner made a representation to the official respondents seeking removal of the aforesaid encroachment. Since the same has not been considered till date, the petitioner has approached this Court with the aforesaid prayer.

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3. In the counter affidavit filed by the 2nd respondent, it is stated that the lands in Survey No.60/1A1 originally belonged to one Veerayi Ammal and she had sold it away by apportioning the lands as several plots to many persons, including the petitioner and the respondents 5 to 10. The plot developer did not obtain any land approval to the aforesaid plots and there was no allocation effected either by the plot developer or by the land owners in favour of the revenue department with regard to the pathway in question. Therefore, the pathway in question will be treated as private pathway. Therefore, if there is any dispute arises, it can be treated as private dispute and the interested parties can avail their remedy in appropriate civil forum. Further, it is stated that the 8th respondent has filed a suit in O.S.No.26 of 2018 on the file of the learned District Munsif, Nilakottai, challenging the issuance of notice by the 2nd respondent for removal of encroachments in the pathway in question and seeking relief of declaration and permanent injunction and obtained an *ex-parte* decree.



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4.Considering the facts and circumstances of the case, we are of the view that since the petitioner and the respondents 5 to 10 purchased unapproved plots, if there is any dispute, it is for the petitioner to approach the Civil Court for appropriate remedy. In view of the above, we are not inclined to pass any orders, directing the removal of encroachment in the pathway in question.

5.Accordingly, this Writ Petition stands dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] & [R.V., J.]
02.01.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

MYR

To

1.The District Collector,
Collectorate Office, Dindigul.

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2.The Tahisldar,
Taluk Office,
Nilakkottai, Dindigul District.

3.The President,
Kanavaipatti Village Panchayat,
Kanavaipatti, Dindigul District.

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