



W.P(MD)No.6324 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 22.06.2023

CORAM :

**THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
The HON'BLE MR.JUSTICE R.SUBRAMANIAN**

W.P(MD)No.6324 of 2023

Azeez Ahamed

... Petitioner

Vs.

1.The District Collector,
Tenkasi District,
Tenkasi.

2.The Revenue Divisional Officer,
Tenkasi Taluk,
Tenkasi District.

3.The Tahsildar,
Tenkasi Taluk,
Tenkasi District.

4.The Village Administrative Officer,
Therkadayam,
Tenkasi Taluk,
Tenkasi.

5.Ameer Sulthan

.. Respondents

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PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Mandamus, directing the respondent Nos.1 to 4, to remove the encroachment made by the fifth respondent in pathway situated in First Street Adjacent to Pallivasal Compound wall from South to North by conducting proper survey in Survey No.7B/1 in Muthaliyarpatti Village, Thenkasi Taluk, Thenkasi District, by considering the representation of the petitioner dated 08.08.2022.

For Petitioner : Mr.R.Maheswaran
For R-1 to R-4 : Mr.P.Thilak Kumar,
Government Pleader

ORDER

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

We have heard Mr.R.Maheswaran, learned counsel for the petitioner and Mr.P.Thilak Kumar, learned counsel for respondents 1 to 4.

2.Learned counsel for the petitioner submits that respondent No.5 has encroached upon the pathway. Learned counsel relies upon the document placed on record to substantiate his contention.



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3.Learned Government Pleader submits that the land in question is a patta land standing in the name of a private person.

4. According to the learned counsel for the petitioner, for more than thirty years, the petitioner and other villagers are using the said land as a pathway.

5. Disputed questions of facts exist in the matter. The same cannot be decided in Writ jurisdiction under Article 226 of the Constitution of India. In case the petitioner has any right of way or otherwise, the petitioner can file appropriate proceedings before appropriate forum. In that event, all contentions are kept open.

6. With the above observations, the writ petition is disposed of.
No Costs.

(S.V.G., CJ.)

(R.S.M., J.)

22.06.2023

NCC :Yes/No
Index : Yes/No
PM

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THE HON'BLE CHIEF JUSTICE

and

R.SUBRAMANIAN, J.

PM

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