



Cont. P.(MD) No.669 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**Cont. P.(MD) No.669 of 2023
in
W.P.(MD) No.26227 of 2022**

V.Thiyagarajan

... Petitioner

-VS-

1.Mr.S.Aneesh Sekhar, I.A.S.,
The District Collector,
Madurai District,
Madurai.

2.Mr.R.Sakthivel,
The District Revenue Officer,
Madurai Collector Office,
Madurai.

3.Mr.K.Firdous Fatima,
The Revenue Divisional Officer,
Melur RDO Office,
Madurai District.

4.Mr.G.Saravana Perumal,
The Tahsildar,
Melur Tahsildar Office,
Melur Taluk,
Madurai District.

... Respondents

PRAYER : Petition filed under Section 11 of Contempt of Courts Act, praying to punish the respondents for their act deliberately disobeying the order dated 21.11.2022 in W.P.(MD) No.26227 of 2022.



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For Petitioner : Mr.S.Arunnithy

For Respondents : Mr.J.Ashok
Additional Government Pleader

ORDER

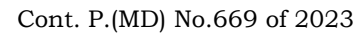
[Order of the Court was made by S.S.SUNDAR, J.]

The Contempt Petition is filed alleging wilful disobedience of the order dated 21.11.2022, in W.P.(MD) No.26227 of 2022.

2. The petitioner has filed a Writ Petition in W.P.(MD) No.26227 of 2022 for issuance a Writ of Mandamus, directing the respondents to remove the encroachment in Survey No.269/7 at Kottampatti, based on the petitioner's representation dated 18.03.2022 and 30.05.2022, within a time frame.

3. This Court taking note of the submissions made by the learned Special Government Pleader, who appeared for the respondents herein, to the effect that the petitioner's representations dated 18.03.2022 and 30.05.2022 would be considered and appropriate action would be taken in accordance with law, disposed of the Writ Petition with the following directions:-

“7. In view of the above, without going into the merits of the claim made by the petitioner, the respondents 1 to 4 are directed to



4. A counter affidavit has been filed by the fourth respondent, namely, the Tahsildar. In the counter affidavit it has been stated that survey was conducted and a report was submitted by the survey team on 31.12.2022, wherein it is stated that in the UDR 'A' Register S.No.269/1 was classified as "Government Poramboke". However, it is seen that the FMB does not indicate the existence of road used by public. Even during the Natham settlement taken up between 1988-90, in the 'Natham Adangal' it is found that an extent of 0.64.74 ares of land stands classified as 'Government Poramboke' with the existence of 'pathway'. Though it is stated that the pathway is found, the location of the pathway is not detailed with reference to boundaries and measurement.



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5. Relying upon the statement made in the counter affidavit, learned counsel for the petitioner states that the respondents who have found encroachment in the pathway have failed to take action.

6. We have already indicated in many cases that under Section 131(2) of the Tamil Nadu Panchayats Act, 1994, the President of the Village Panchayat or the Block Development Officer has no power or jurisdiction to remove the encroachment in respect of Government Poramboke or public property and it has to be removed by invoking the provisions of Tamil Nadu Land Encroachment Act, 1905. Even if there is encroachment in a public pathway, it is only the revenue officials under the provisions of Tamil Nadu Land Encroachment Act, 1905, should take action based on the request or report from the local Village Administrative Officer or local body.

7. It is to be noted that the private respondent in the Writ Petition was not served with any notice at the time of disposal of the Writ Petition. The character of the property described in the status report cannot be accepted without the presence of the private respondent in the Writ Petition, who has to be given a fair opportunity.

8. In such circumstances, having regard to the stand of the respondents that already proceedings have been initiated under Section 7 of



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the Tamil Nadu Land Encroachment Act, the Contempt Petition is closed.

However, it is open to the petitioner to approach the Civil Court, if really he wants relief as against private individuals for interfering with the petitioner's right to pathway or passage.

[S.S.S.R, J.] [D.B.C., J.]
16.08.2023

Index : Yes / No
Neutral Citation : Yes / No
sj



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S.S.SUNDAR, J.
and
D.BHARATHA CHAKRAVARTHY, J.

sj

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