

W.P.(MD) No.6682 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) No.6682 of 2023
and
W.M.P.(MD) No.6312 of 2023**

S.Ramesh

... Petitioner

-VS-

1.The District Collector
Tirunelveli District
Tirunelveli

2.The Sub Collector
Cheranmahadevi
Tirunelveli District

3.The Tahsildar
Radhapuram Taluk
Tirunelveli District

4.The President
Levenchipuram Village Panchayath
Levenchipuram
Tirunelveli District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus forbearing the respondents 1 to 4 from putting up iron fencing by blocking the way in between the petitioner's family property in S.No.814/1A and Kanyakumari National High Way in Levenchipuram Village, Radhapuram Taluk, Tirunelveli District.

For Petitioner : Mr.S.Saravanakumar

For Respondents : Mr.A.Baskaran
Additional Government Pleader for R1 to R3
Mr.P.T.Thiraviyam
Government Advocate for R4

O R D E R

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

The petitioner seeks a writ of mandamus forbearing the respondents from putting up iron fencing, which would have the effect of blocking the way available to his property in Survey No.814/1A and Kanyakumari National Highway at Levenchipuram Village.

2. The right espoused by the petitioner is a right of easment of right of way. The same cannot be made as a subject matter of a writ petition under Article 226 of the constitution of India. Hence, this writ petition is

dismissed reserving the liberty to the petitioner to approach the Civil Court to establish his right.

3. Before parting with this writ petition, we could not resist observing that the attempt made by the Government to fence the land classified as Mandhai or Kalam is, by itself, a retrograde step, which would prevent the normal user of the land, which is left for communal purpose. It is a common knowledge that Mandhai and Kalam are lands, which are left for communal purpose to be used by all the villagers. If they are to be fenced, the villagers will be denied user of the lands. It is for the Government to look into this aspect before going ahead with this kind of projects, which will only result in enriching the contractors. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

28.03.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

krk

To:

- 1.The District Collector,
Tirunelveli District,
Tirunelveli.
- 2.The Sub Collector,
Cheranmahadevi,
Tirunelveli District.
- 3.The Tahsildar,
Radhapuram Taluk,
Tirunelveli District.
- 4.The President,
Levenchipuram Village Panchayat,
Levenchipuram,
Tirunelveli District.

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and
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