



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:**01.09.2023**

CORAM:

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

W.P(MD)NO.8672 of 2023

N.Sundar

:Petitioner

.VS.

- 1.The District Collector,
Dindigul District.
- 2.The Deputy Director(Panchayat),
Dindigul District.
- 3.The Block Development Officer,
Sanarpatti Panchayat Union,
Sanarpatti,
Dindigul District.
- 4.The Village Administrative Officer,
Vembarpatti,
Dindigul District.
- 5.The Panchayat President,
Vembarpatti Village Panchayat,
Dindigul District.
- 6.Varadan
- 7.Maruthu
- 8.Jambu



9.Murugan

10.Arulmigu Kaliyamman Kovil,
represented by its Managing Trustee
Kaliyamman Kovil Street, Gopalpatti,
Vemparpatti Post, Dindigul District 624 308.

11.The Tahsildar,
Dindigul East,
Dindigul District.

(R-11 is suo.motu impleaded as 11th respondent as per
order of this Court, dated 01.09.2023)

(R6 to R10 are impleaded as per order of this Court made in
W.M.P(MD)No.9134 of 2023 in W.P(MD)No.8672 of 2023, dated
22.06.2023) : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to consider the Petitioner's representation, dated 8.4.2023 and consequently to measure the public pathway to remove the encroachments made in the land in S.No.890/14 situated in Kalliyamman Kovil Street, Vembarpatti Village, Dindigul District.

For Petitioner	:No appearance
For Respondents 1 to 4	:Mr.J.K.Jeyaseelan Govt.Advocate
For Respondent-5	:Mr.P.T.Thiraviam
For Respondents 6 to 9	: Mr.S.M.Anandha Murugan



ORDER

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This Writ Petition is filed seeking issuance of a Writ of Mandamus directing the official respondents to remove the encroachments made in the land in S.No.890/14 situated in Kalliyamman Kovil Street, Vembarpatti Village, Dindigul District by considering the representation of the Petitioner, dated 8.4.2023.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.In the representation of the Petitioner, he has stated that there is an encroachment in S.No.890/14 which is classified as "public pathway". It is further stated by the Petitioner that he is using the said pathway to reach the main road. It is his further case that the encroachment in the public pathway by the private individuals has been objected to by the Petitioner for a long time and that the official respondents, who are competent to take action for removal of encroachment, has not taken any steps so far to remove the encroachment.



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4.The learned Government Advocate appearing for the official respondents 1 to 4, on instructions, produced before this Court report from the Tahsildar, Dindigul East stating that an extent of 2.84 ares in S.No.890/14 is classified as "Street" and that the encroachment is made not only by the private respondents but also by few other individuals.

5.The learned counsel for the private respondents/respondents 6 to 9 submits that none of the respondents 6 to 9 have made any encroachments. However,the learned counsel would further submit that the Tahsildar concerned has not conducted any survey to identify any encroachment by the temple. It is his case that the respondents 6 to 9 are only interested in protecting the temple. The learned counsel would further submit that the temple was constructed long back and that the temple portion cannot be construed as an encroachment, since the street itself is known in the name of the temple as Kaliamman Kovil Street.

6.This Court may agree with the name of street. However, it is seen that the temple has made encroachment by extending the construction blocking the street upto middle and for the reason that



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the street itself is known in the name of the temple, it cannot be said that the encroachment made by the temple cannot be touched.

Since the encroachment in public street in a Village Panchayat can be removed effectively by the Tahsildar concerned, the Tahsildar, Dindigul East is suo-motu impleaded as 11th respondent.

7. Having regard to the submissions made on either side, this Court is inclined to dispose of the Writ Petition, in the following lines:

(1) the Tahsildar, Dindigul East, the 11th respondent is directed to conduct a survey of the subject property after issuing notice to the Petitioner and respondents 6 to 10 or any other person, who is found to be in encroachment of the public street;

(2) The Tahsildar, Dindigul East shall also draw a report on the basis of the survey conducted by her, with the assistance of the qualified surveyor;

(3) the Tahsildar, Dindigul East shall send a copy of such report drawn pursuant to the survey conducted, to the Petitioner as well as



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to the respondents 6 to 10 and hold an enquiry and in case, encroachment is noticed as per the revenue records, the Tahsildar, Dindigul East is directed to initiate proceedings for removal of encroachment under the provisions of Tamil Nadu Land Encroachment Act, 1905;

(4) it is needless to say that the Tahsildar, Dindigul East shall issue show-cause notice to all the parties interested and thereafter pass final orders after considering the objections raised by the Petitioner as well as respondents 6 to 10.

(5) the entire exercise shall be completed within a period of 12 weeks from the date on which the report drawn by the Tahsildar, Dindigul East is sent to the Petitioner as well as to the private respondents/respondents 6 to 10.

8. With the above directions, the Writ Petition stands disposed of. No costs.

[S.S.S.R.,J.] [D.B.C,J.]
01.09.2023



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

vsn

To

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S.S.SUNDAR, J.

AND

D.BHARATHA CHAKRAVARTHY, J.

vsn

ORDER MADE IN

W.P(MD)NO.8672 of 2023

01.09.2023