



WEB COPY

W.P.(MD) No.14967 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.07.2023

CORAM:

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

W.P.(MD) No.14967 of 2023

P.Subbiah Konar

... Petitioner

-vs-

- 1.The District Collector
Thoothukudi – 628 101
Thoothukudi District
- 2.The Revenue Divisional Officer
Revenue Divisional Office
Kovilpatti – 628 501
Thoothukudi District
- 3.The Tahsildar
Kovilpatti Taluk
Thoothukudi District – 628 501
- 4.Murugalakshmi

... Respondents



W.P.(MD) No.14967 of 2023

WEB COPY

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 3 to remove the encroachment made by the fourth respondent in Survey No.103, Government Poramboke common pathway in V.P.Sidhan Nagar, Nalatinpudhur, Kovilpatti, by considering the third respondent order No.Na.Ka.A3/8279/2021, dated 03.10.2022 and 28.02.2023 and to pass order on merits and in accordance with law, within a stipulated time.

For Petitioner : Mr.K.Chinraj

For Respondents : Mr.M.Lingadurai
Special Government Pleader for R1 to R3

ORDER

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

This writ petition is filed for issuance of a writ of mandamus directing the respondents 1 to 3 to remove the encroachment made by the fourth respondent in Survey No.103, a Government Poramboke Common Pathway, in V.P.Sidhan Nagar, Nalatinpudhur, Kovilpatti, Thoothukudi District.



WEB COPY

W.P.(MD) No.14967 of 2023

2. It appears that in the proceedings dated 28.02.2023, the Tahsildar himself has referred to the encroachment made by the fourth respondent in Survey No.103, which is classified as “Government Poramboke Kallankuthu”.

3. The allegation against the fourth respondent is that she has encroached into a portion of the property in Survey No.103, which is a pathway.

4. The fourth respondent has filed a suit in O.S.No.36 of 2023, before the District Munsif Court, Kovilpatti, admitting the classification of the land in Survey No.103 *viz.* Government Poramboke land. However, her specific case in the said suit is that she is the absolute owner of the property in Survey Nos.114/2A1B & 1C, measuring an extent of 0.2017 Hectares. Stating that the land described in Item Nos.I & II of the suit schedule property is her patta land and that the respondents in the suit are trying to interfere with her possession of the said land by referring to Survey No.103, the fourth respondent has filed the suit.



WEB COPY

W.P.(MD) No.14967 of 2023

5. Since the suit in O.S.No.36 of 2023, involving the same issue, is already pending before the Civil Court, this Court is not inclined to entertain this writ petition. It is open to the petitioner to implead himself as a party defendant in the said suit and establish his case, if any, to non-suit the fourth respondent / plaintiff.

6. Accordingly, this writ petition is dismissed. No costs.

[S.S.S.R., J.]

[D.B.C., J.]

14.07.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

krk

To:

- 1.The District Collector,
Thoothukudi – 628 101,
Thoothukudi District.
- 2.The Revenue Divisional Officer,
Revenue Divisional Office,
Kovilpatti – 628 501,
Thoothukudi District.
- 3.The Tahsildar,
Kovilpatti Taluk,
Thoothukudi District – 628 501.



WEB COPY



W.P.(MD) No.14967 of 2023

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

krk

W.P.(MD) No.14967 of 2023

14.07.2023