



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:**01.08.2023**

CORAM:

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

**CONT.P(MD)NO.1397 OF 2023
and
W.P(MD)No.13236 of 2021**

Athilingam

:Petitioner/Petitioner

.VS.

1.Ravichandran, I.A.S.,
District Collector,
Tenkasi Collector Office,
Thenkasi District.

2.Suppulakshmi,
Revenue Divisional Officer,
R.D.O.Office,
Sankarankovil,
Thenkasi District.

3.Babu,
Tahsildar,
Sankarankovil Taluk,
Thenkasi District.

4.Chandra,
Block Development Officer,
Block Development Office,
Sankarankovil,
Thenkasi District.

:Contemnors 1 to 4/
Respondents 1 to 4



PRAYER: Contempt Petition filed under Section 11 of the Contempt of Courts Act to initiate Contempt Proceedings against the Contemnors/Respondents for their wilful disobedience of the order passed by this Court in W.P(MD)No.13236 of 2021, dated 10.11.2022 and punish them accordingly.

For Petitioner :Mr.R.Senthilkumar

For Respondents :Mr.Veera kathiravan
1 to 4 Addl.Advocate General
assisted by
Mr.D.Sachikumar
Addl.Govt.Pleader

O R D E R

**(Order of the Court was made by D.BHARATHA
CHAKRAVARTHY,J)**

This Contempt Petition is filed complaining wilful disobedience of the order, dated 10.11.2022 in W.P(MD)No.13236 of 2021.

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

3.By the said order, recording the communication addressed by the third respondent, namely, the Tahsildar, Sankarankovil Taluk, Thenkasi District to the learned Government Advocate and finding that there is encroachment, this Court, directed the removal of encroachment in the place in question, after affording sufficient



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opportunity to all the parties concerned and by following the due process of law, within a period of eight weeks from the date of receipt of a copy of the order.

4.Today, Mr.Veerakathiravan, learned Additional Advocate General would submit that when the authorities initiated action to follow the due process of law, it turns out that as per the original revenue records, the entire extent of S.No.692 was classified as "Natham". When pattas have been granted under the "Natham Nilavari Thittam Scheme" to the individuals, the place in between two plots is marked as "pathway". Accordingly, S.NO.692/38 is mentioned as "pathai" in the revenue records. The alleged encroachment is by constructing steps for having entrance from the pathway by the private respondents. Under these circumstances, it can be seen that even though a direction was given for removal of encroachment, still this Court has directed to follow due process of law and to give sufficient opportunity to all the parties concerned. During the said process, if the facts come to light that the land in question is "Natham", then, it is not a public road. In that sense, the lane is used as pathway by the adjacent owners. On a perusal of the photographs produced by the learned



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Additional Advocate General, it is seen that the Petitioner and the private respondents, who are the alleged encroachers are neighbours and that the land in question is a 4 feet lane which goes in between two plots. Thus when application of mind by affording an opportunity is mandated in the order, we are of the view that non-removal of the encroachment by the respondents, cannot be considered as a disobedience of the order of this Court, as there is a valid justification for not taking action for removal of encroachment. However, we find that since the lane in between the two plots is a common pathway for the concerned individuals to be used in common, if at all, the Petitioner is aggrieved by infringement of his rights to use the said lane as a common pathway, liberty is given to the Petitioner to approach the competent Civil Court, for necessary relief, in the manner known to law, if so advised.

5. Granting such liberty to the Petitioner, the Contempt Petition stands closed. No costs.

[S.S.S.R.,J.] [D.B.C.J.]
01.08.2023



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

CONT.P(MD)NO.1397 OF 2023

and

W.P(MD)No.13236 of 2021

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