



W.P.(MD) No.16652 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2023

CORAM:

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

W.P.(MD) No.16652 of 2023

N.Solaiappan

... Petitioner

-VS-

1.The District Collector
Theni, Theni District

2.The Block Development Officer
Periyakulam Panchayat Union Office
Vadukapatti, Theni District

3.The President
Entapuzhi Panchayat
Theni District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents to remove the encroachment made on the road which connects Arul Megu Kannimar Kovil with main road at Survey Nos.279/1, 279/2, 50/2A, 48/2, 48/1, 248, 252, 254, 253, 247,



W.P.(MD) No.16652 of 2023

WEB COPY 250/1, 250/3, 256/3, 256/1, 279/2, 280 and 241 of Kamachipuram Village, Periyakulam Taluk, Theni District, by considering the representation of the petitioner dated 27.02.2021 and 13.03.2023, within a time stipulated by this Court.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.P.Thilakkumar
Government Pleader for R1
Mr.M.Lingadurai
Special Government Pleader for R2 & 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 to remove the encroachments made on the road, which connects Arulmigu Kannimar Kovil with main road at Survey Nos. 279/1, 279/2, 50/2A, 48/2, 48/1, 248, 252, 254, 253, 247, 250/1, 250/3, 256/3, 256/1, 279/2, 280 and 241 of Kamachipuram Village, Periyakulam Taluk, Theni District, by considering the representations of the petitioner dated 27.02.2021 and 13.03.2023.



WEB COPY

W.P.(MD) No.16652 of 2023

2. It is the case of the petitioner that there is a Temple named Arulmigu Kannimar Temple as well as a Christian Church on the foothills of Murugamalai. The petitioner states that the people of the village decided to give their own lands to the Panchayat in order to form a road, so that the Temple and the Church will be connected for the use of the agriculturists as well as the villagers. It is also stated by the petitioner that a road was laid in the land that was gifted to the Panchayat by seven persons. Stating that the road that was formed originally was a 13 Feet road, the petitioner alleges that there are encroachments by one Mani and Karthick and that the width of the road is reduced by the act of the third parties. The petitioner has not even impleaded the individuals against whom he alleges encroachment. Though the petitioner has come forward to establish the existence of the pathway having width of 13 Feet, he has not produced any revenue records showing the description of the road. Since the petitioner is trying to establish his right of way to a public road, through a road, which according to him, is a public road, it is appropriate for him to approach the Civil Court and the Civil Court alone is competent to grant the relief. Hence, we are not inclined to entertain this writ petition.



WEB COPY



W.P.(MD) No.16652 of 2023

3. Accordingly, the writ petition is dismissed with liberty to the petitioner to approach the Civil Court for appropriate relief, after impleading the third parties. No costs.

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

[D.B.C., J.]

11.07.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

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W.P.(MD) No.16652 of 2023

S.S.SUNDAR, J.
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krk

W.P.(MD) No.16652 of 2023

11.07.2023

Page 5 of 5