



W.P(MD)No.18515 of 2020

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 28.08.2023**

**CORAM :**

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE  
and  
THE HONOURABLE MR.JUSTICE P.VADAMALAI**

**W.P(MD)No.18515 of 2020**

V.Leopraakash

... Petitioner

-VS-

1. The District Collector,  
Tirunelveli District,  
Tirunelveli.

2. The Revenue Divisional Officer,  
Tirunelveli District,  
Tirunelveli.

3. The Assistant Director(Panchayats),  
O/o Panchayat Union,  
Tirunelveli District.

4. The Tahsildar,  
Palayamkottai – Taluk,  
Tirunelveli District

5. Block Development Officer (Panchayat)  
Palayamkottai Panchayat,  
Tirunelveli District.

6. Arul Prakasam

7. Soosai

8. Mallika

... Respondents



**W.P(MD)No.18515 of 2020**

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the Respondent Nos.1 to 5 to remove the illegal encroachment made by the Respondents Nos.6 to 8 on the Public Pathway which situated in Survey No.60/1 situated at Chettikulam Village, Palayamkottai Taluk, Tirunelveli District, which is classified as public pathway which leading the way to properties in Survey Nos.57/8, 57/8A, 57/8B, 57/8C, 57/8D, 57/8E, 57/5 and 57/4 by considering the petitioner's representation dated 08.09.2020 within time stipulated by this Honourable Court.

For Petitioner : Mr.D.Balamurugapandi  
For R1 to R5 : Mr.P.Thilakkumar, Government Pleader  
For R6 & R7 : Mr.P.Pethu Rajesh

### **ORDER**

**[Order of the Court was made by The Hon'ble CHIEF JUSTICE]**

Heard Mr.D.Balamurugapandi, learned counsel appearing for the petitioner, Mr.P.Thilakkumar, learned Government Pleader appearing for the respondents 1 to 5 and Mr.P.Pethu Rajesh, learned counsel for the respondents 6 and 7.

2. The learned counsel appearing for the petitioner submits that on the public pathway, encroachment has been made by the respondents 6 to 8. Notice has been issued under Section 131(2) of the Tamil Nadu Panchayats Act,1994.



**W.P(MD)No.18515 of 2020**

3. The respondents 6 and 7 had filed a civil suit bearing No. 487 of 2019 seeking permanent injunction not to disturb their possession. This Court under order dated 16.12.2020 *suo motu* stayed the suit.

4. According to the learned counsel for the respondents 6 to 8, that public pathway does not exist. The said pathway referred to is only meant for the access of the family members of the respondents 6 to 8. The same is not a public pathway.

5. Be that as it may, the notice dated 21.12.2020 purportedly issued under Section 131(2) of the Tamil Nadu Panchayats Act, 1994, shall be construed as a show cause notice to the respondents 6 to 8. The respondents 6 to 8 would file reply to the said show cause notice. Pursuant thereto, fresh decision shall be taken by the authority. The reply shall be filed within a period of two weeks from today.

6. The civil suit bearing O.S.No.487 of 2019 itself would not survive now.

7. After receiving the reply, the official respondents shall consider the reply filed by the respondents 6 to 8 and take a decision



**W.P(MD)No.18515 of 2020**

afresh in the matter. Pursuant to the decision, the parties may take steps accordingly.

8. The respondents authorities are also at liberty to conduct survey to find out the actual state of affairs.

9. The Writ Petition is accordingly disposed of. No costs.

**[S.V.G., C.J.]**

**[P.V.M., J.]**

**28.08.2023**

Index : Yes / No  
Neutral Citation : Yes / No  
bala

To

1. The District Collector,  
Tirunelveli District,  
Tirunelveli.

2. The Revenue Divisional Officer,  
Tirunelveli District,  
Tirunelveli.

3. The Assistant Director(Panchayats),  
O/o Panchayat Union,  
Tirunelveli District.

4. The Tahsildar,  
Palayamkottai – Taluk,  
Tirunelveli District



**W.P(MD)No.18515 of 2020**

5. Block Development Officer (Panchayat)  
Palayamkottai Panchayat,  
Tirunelveli District.

WEB COPY



WEB COPY



**W.P(MD)No.18515 of 2020**

**THE HONOURABLE CHIEF JUSTICE**  
**and**  
**P.VADAMALAI, J.**

bala

**W.P(MD)No.18515 of 2020**

**28.08.2023**