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W.P.(MD) No.18092 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2023

CORAM:

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

W.P.(MD) No.18092 of 2023

B.Arumugam

... Petitioner

-VS-

- 1.The District Collector
Collectorate
Pudukkottai District
- 2.The District Revenue Officer
Collectorate Pudukottai
Pudukkottai District
- 3.The Deputy Block Development Officer
Panchayat Union
Pudukkottai District
- 4.The District Adi Dravidar &
Tribal Welfare Officer
District Adi Dravidar &
Tribal Welfare Officer
Pudukkottai District



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5.The Special Tahsildar
Adi Dravidar & Tribal Welfare Department
Pudukkottai District

6.K.Arumugam

... 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 by the sixth respondent in Survey No.367/32A at Sammattividuthi Village, Pudukkottai Taluk, Pudukkottai District and consequently direct the 1 to 5 respondents lay a permanent road to perform funeral rites for the petitioner village people by acquiring the land in Survey No.367/28, 367/23 and 367/32 at Sammattividuthi Village, Pudukkottai Taluk, Pudukkottai District, based on the RTI reply given by the third respondent dated 15.03.2022 as well as joint representation dated 02.03.2020 and 26.08.2022, within a time stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.P.Thilakkumar
Government Pleader for R1, R2 & R5
Mr.M.Lingadurai
Special Government Pleader for R3 & R4



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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 5 to remove the encroachment made by the sixth respondent in Survey No.367/32A of Sammattividuthi Village, Pudukkottai Taluk, Pudukkottai District and to direct the respondents 1 to 5 to lay a permanent road by acquiring the land in Survey Nos.367/28, 367/23 and 367/32, based on the reply given by the third respondent dated 15.03.2022 under the Right to Information Act, 2005 and the joint representations dated 02.03.2020 and 26.08.2022, within a time stipulated by this Court.

2. It is the case of the petitioner that in the event of death in his village, the villagers have to take the dead body to the burial ground through private patta lands. Therefore, all along the petitioner was approaching the official respondents for acquisition of land from private pattadars to have access to the burial ground. When such being the position, the petitioner in this writ petition seeks a direction to the official respondents to remove the encroachment made by the sixth respondent in Survey No.367/32A.



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3. This Court is of the view that the prayer in this writ petition is quite contrary to the representation given to the official respondents, wherein the petitioner sought for acquisition of land to form a pathway. When it is admitted that the petitioner and his villages have to use the private patta land for the purpose of taking dead bodies to burial ground, the petitioner has to establish the right of easement. In case any permission is required to use the private patta land, it may be open to the pattadars to give permission to the villagers, so that there will not be any law and order problem in this regard. Till such time private patta lands are acquired, the petitioner has no semblance of right at all to seek for removal of encroachment made in the private patta land.

4. That apart, it is seen that even in response to the representation, the petitioner was also informed by the official respondents that the land in question belongs to the private parties and therefore, pathway can be formed only after acquisition of the land from the private pattadars. Despite the said factum, the petitioner has filed this writ petition simpliciter for removal of encroachment. In such circumstances, this Court is of the view



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that the prayer in this writ petition is totally misconceived and the same is liable to be dismissed.

5. Hence, this writ petition fails and it is dismissed. No costs.

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

[D.B.C., J.]

27.07.2023

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

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To:

- 1.The District Collector,
Collectorate,
Pudukkottai District.
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- 3.The Deputy Block Development Officer,
Panchayat Union,
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5.The Special Tahsildar,
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