



W.P.(MD).No.19425 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 03.10.2023

CORAM

**THE HON'BLE MR JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR JUSTICE V.LAKSHMINARAYANAN**

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S.Periasamy

.. Petitioner

Vs.

1.The District Collector,
Office of the District Collectorate,
Sivagangai District.

2.The Tashildar,
Devakottai Taluk Office,
Sivagangai District.

3.Thangam

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, directing the respondents 1 to 2 to remove the encroachment made by the 3rd respondent on the Natham Government Poramboke Land comprised in Survey No.112/8 measuring to an extent of 0.0796 Square Meter situated at Selugai, Karkathakudi Post, Devakottai Taluk, Sivagangai District within the time frame fixed by this Court and restore the same for common passage.



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For Petitioner : Mr.S.Arivazhagan
For R-1 & R-2 : Mr.T.Amjad Khan
Government Advocate
For R-3 : No appearance

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM,J.)

The relief sought for in the present Writ Petition is to direct the respondents 1 and 2 to remove the encroachment made by the third respondent on the Natham Government Poramboke land comprised in Survey No.112/8, measuring to an extent of 0.0796 square meter, situated at Selugai, Karkathakudi Post, Devakottai Taluk, Sivagangai District.

2. The petitioner states that the third respondent has encroached upon the public pathway and constructed a toilet and the said fact was admitted by the third respondent before the authorities.

3. The learned Government Advocate appearing for the respondents 1 and 2 made a submission that the third respondent has already given an undertaking to remove the toilet from the public pathway on or before



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21.09.2023. Thereafter, the third respondent instituted a civil suit against the Panchayat, which is pending. It is brought to our notice that there is no interim order in force in the civil suit instituted by the third respondent.

4. Since the third respondent has given an undertaking and violated his own statement made before the authorities and instituted a suit, no further leniency needs to be shown in respect of the conduct of the third respondent. Accordingly, the respondents 1 and 2 are directed to remove the encroachments from the public pathway within a period of four (4) weeks from the date of receipt of a copy of this order and make the public pathway for the usage of the people of that locality.

5. Accordingly, the Writ Petition stands allowed. There shall be no order as to costs.

(S.M.S.,J.) (V.L.N.,J.)
03.10.2023

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



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