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**W.P.(MD) No.19897 of 2023**

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

**DATED : 17.08.2023**

**CORAM:**

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

**W.P.(MD) No.19897 of 2023**

M.Ramaraj

... Petitioner

-vs-

1.The District Collector  
Thoothukudi District  
At Thoothukudi

2.The Revenue Divisional Officer  
Thiruchendur  
Thoothukudi District

3.The Thasildar  
Sattankulam Taluk  
Thoothukudi District

4.Sudalai

5.Duraipandi

6.Gunasekaran

7.Muthuraman

... Respondents

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**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 3 to remove the encroachments made by the respondents 4 to 7 in 4 metre width road at Melatheru, Naganai, comprised in Re Survey No.39/1A, Pannampaarai Village, Sattankulam Taluk, Thoothukudi District, based on the petitioner's representation dated 06.04.2023.

For Petitioner : Mr.Charles Kamalesh M.Appaji

For Respondents : Mr.M.Lingadurai  
Special Government Pleader for R1 to R3

### **ORDER**

**[Order of the Court was made by S.S.SUNDAR, J.]**

Mr.M.Lingadurai, learned Special Government Pleader, takes notice for the respondents 1 to 3.

**2.** Since we are not passing any adverse orders, notice to the respondents 4 to 7 is dispensed with.

**3.** With the consent of both sides, this writ petition is taken up for final hearing at the admission stage itself.



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**4.** This writ petition is filed for issuance of a writ of mandamus directing the respondents 1 to 3 to remove the encroachments made by the respondents 4 to 7 in 4 Metre width road at Melatheru, Naganai, comprised in Re-Survey No.39/1A of Pannampaarai Village, Sattankulam Taluk, Thoothukudi District, based on the petitioner's representation dated 06.04.2023.

**5.** The petitioner states that he is the owner of the property comprised in Re-Survey No.46/2 of Pannampaarai Village, Naganai, Sattankulam Taluk, Thoothukudi District. It is the case of the petitioner that on the southern side of the property purchased by him in Re-Survey No.46/2, there exists a 4 Meter width cart track in Survey No.39/1A in the same village. Stating that the private respondents, who own major extent of land in Re-Survey No.39/1A, have encroached the 4 Meter width cart track, on 06.04.2023, the petitioner sent a representation to the official respondents seeking removal of encroachment made by the private respondents in the 4 Meter width road.



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**6.** To be noted, this Court, having regard to the facts narrated in the affidavit filed in support of the writ petition, is unable to find any right vested in the petitioner to use the cart track, as described or claimed by him in the affidavit.

**7.** Learned Special Government Pleader appearing for the respondents 1 to 3 produced before this Court the revenue records to show that the property in Survey No.39/1A is a patta land and the entire land is registered in the holding of several individuals, including the respondents 4 to 7 herein.

**8.** This Court finds that the petitioner tries to establish his right of easement over the property, which is adjacent to his land, on the basis of the mark as detailed in the F.M.B. That does not give any right to the petitioner to claim every physical feature that is detailed in the F.M.B. is existing on ground for all the time to come. However, it may be open to the petitioner to establish his right of easement by filing a suit before the Civil Court.



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9. Accordingly, with a liberty preserved to the petitioner to approach the Civil Court for appropriate relief, this writ petition is dismissed.  
No costs.

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

**[D.B.C., J.]**

**17.08.2023**

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

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To:

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At Thoothukudi.
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**S.S.SUNDAR, J.**  
**and**  
**D.BHARATHA CHAKRAVARTHY, J.**

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