



W.P.(MD)No.21501 of 2021

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

**DATED : 20.11.2023**

**C O R A M**

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**W.P.(MD)No.21501 of 2021**

**and**

**W.M.P.(MD)Nos.18067, 18069 and 18070 of 2021**

G.Balasubramanian

... Petitioner

-VS-

1.The District Collector,  
Tenkasi District, Tenkasi.

2.The Revenue Divisional Officer,  
Sankarankovil Region, Sankarankovil,  
Tenkasi District.

3.The Tahsildar,  
Sankarankovil Region, Sankarankovil,  
Tenkasi District.

4.The Commissioner,  
Sankarankovil Municipality, Sankarankovil,  
Tenkasi District.

5.The Assistant Executive Engineer,  
Distribution Circle,  
Tamil Nadu Electricity Board,  
Sankarankovil,  
Tenkasi District.

... Respondents



W.P.(MD)No.21501 of 2021

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the fourth respondent and his employees in putting pathway by pulling 6 feet at breadth and 433 feet at length from the patta land of the petitioner herein in the property, bearing Survey No.238/4A, situated at Vadakku Puthur Panchayat, Atchampatti Village, Sankarankovil Taluk, Tenkasi District, forthwith.

|                |   |                                                 |
|----------------|---|-------------------------------------------------|
| For Petitioner | : | Mr.S.Palani Velayutham                          |
| For R1 to R3   | : | Mr.B.Saravanan<br>Additional Government Pleader |
| For R4         | : | Mr.P.Mahendran                                  |
| For R5         | : | Mr.S.Deenadhayalan<br>Standing Counsel          |

### ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus, forbearing the fourth respondent from in anyway extending the existing pathway by 6 feet breadth and 433 feet length, upon encroaching the Patta land belonging to the petitioner.

2. Heard the learned counsel appearing for the parties.



W.P.(MD)No.21501 of 2021

3. The grievance of the petitioner is that there is a common pathway adjacent to his property and that an attempt was being made by the fourth respondent to extend the pathway by encroaching upon the land belonging to the petitioner.

4. The fourth respondent has filed a counter affidavit and the relevant portions are extracted hereunder:-

*"5. It is submitted that the above said sarkar Poramboke /vandipathai and adjacent areas are in a triangular portion. There is an existing road which leads to Atchampatti Road/ Burial ground Road and adjacent Vadakkupudur Village Boundary, Sankarankovil Municipality boundary and Kalpakulam village boundary.*

*6. It is submitted that a complaint has been made by the villagers of Atchampatti on 20.7.2021 to the Tahsildar, Sankarankovil, wherein they have stated that illegal encroachments were made in the lands comprised in T.S.Nos 6 and 7 of Sankarankovil Municipality, S.Nos.750, 751 and 752 of Vadakkupudur village and further Survey No.602 of Kalpakulam village and requested to take action for removing the said encroachments. Based on such complaint, in order to identity the*



W.P.(MD)No.21501 of 2021

*extent of the above said survey properties more fully as per the revenue records, the Surveyors of Vadakkupudur, Kalpakulam, and Sankarankovil municipality visited the said villages on 19.11.2021 and after such survey and inspection, the original extent of the above said survey lands were identified as per revenue records and identification has been made and also earmarked. It is further submitted that the identification has been carried out as per the revenue records."*

5. The counter affidavit of the fourth respondent shows that only a survey and inspection was made to see if the petitioner has encroached upon the public pathway. It is further stated that the road has been identified as per the revenue records.

6. In the light of the specific stand taken by the fourth respondent, it is left open to the fourth respondent to maintain the existing pathway without encroaching upon the property belonging to the petitioner. If the petitioner has encroached upon the public pathway, notice shall be issued to him to remove the encroachment and thereafter, the fourth respondent can proceed further in accordance with law.



W.P.(MD)No.21501 of 2021

7. This Writ Petition is disposed of in the above terms. No costs.

Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes/No

Index : Yes/No

SMN2

20.11.2023

To

- 1.The District Collector,  
Tenkasi District, Tenkasi.
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Sankarankovil Region, Sankarankovil,  
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**W.P.(MD)No.21501 of 2021**

**N.ANAND VENKATESH, J.**

**SMN2**

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