



W.P.(MD)No.21197 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2023

CORAM:

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

W.P(MD)No.21197 of 2023
and
W.M.P(MD)No.17607 of 2023

Kannan

... Petitioner

Vs.

- 1.The District Collector,
Collector Office,
Pudukottia.
- 2.The Revenue Divisional Officer,
Revenue Divisional Office,
Pudukottai.
- 3.The Tahsildar,
Taluk Office,
Thirumayam,
Pudukottai.
- 4.The Block Development Officer,
Block Development Office,
Arimalam Village Panchayat,
Pudukottai.
- 5.The Village Panchayat President,
Panchayat Office,



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Kannangkarakudi Village,
Thirumayam Taluk,
Pudukottai.

6.The Assistant Divisional Engineer (TNEB)

Office of Assitant Divisional Engineer,
Katiapatti Division,
Thirumayam Taluk,
Pudukottai District.

7.The Assistant Engineer (TNEB),

Office of Assistant Engineer,
Kattiapatti Sub Station,
Pudukottai District.

8.The District Registrar,

Office of District Registrar,
Pudukottai.

9.The Sub Registrar,

Office of Sub-Registrar Thirumayam,
Thirumayam Taluk,
Pudukottai District.

10.The District Superintendent of Police,

District Police Office,
Pudukottai.

11.The Inspector of Police,

Thirumayam Police Station,
Pudukottai District.

12.Periyanayagi

13.Karuppaiah

14.Senthil Kumar

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents Nos.1 to 6 to remove the encroachment made by the respondents Nos.12 to 14 by constructing the fencing and gate in survey No.179 situated at Kannagkarakudi Village, Thirumayam Taluk, Pudukottai District which is exclusively earmarked for public pathway based on the petitioner's representation dated 25.07.2023.

For Petitioner : Mr.M.Vivek Bharathi
For R1 to R6, R8
& R9 : Mr.T.Villavan Kothai
Additional Government Pleader
For R7 : Mr.S.Deenadhayalan
For R10 & R11 : Mr.M.Veeranthiran
Government Advocate (Crl.side)

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

Mr.T.Villavan Kothai, learned Additional Government Pleader, takes notice for the respondents 1 to 6, 8 & 9, Mr.S.Deenadhayalan, learned counsel, takes notice for the seventh respondent and Mr.M.Veeranthiran, learned Government Advocate (Crl.side), takes notice for the respondents 10 & 11.



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

3. This writ petition is filed for issuance of writ of mandamus directing the respondents 1 to 6 to remove the encroachment made by the respondents 12 to 14 by constructing the fencing and gate in survey No. 179, situated at Kannagkarakudi Village, Thirumayam Taluk, Pudukottai District.

4. The case of the petitioner is that he is the resident Kannangkarakudi Village and a land measuring an extent of 1 acre was assigned to his mother under special scheme for landless people in the year of 1979. The petitioner states that his mother was doing agriculture activities in the above said land. He also referred to a suit in O.S.No.53 of 2016 filed by him against the stranger in respect of the property assigned in favour his mother and the decree obtained against the said individual by name Sathya. It is the case of the petitioner that the property in survey No.179 was divided into several plots and they were allotted to several persons, who were found to be landless poor. Though he admitted that the patta was issued to several of those persons, it is the



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case that pathway which was passing through the said land assigned in favour of others is now been encroached by the respondents 12 to 14. It is also his case that the petitioner has right to use pathway as he has no other pathway. Though the petitioner states that the pathway is detailed in the FMB, he has not produced any document to show that the pathway is shown to be in existence in the survey No.179, in which, the petitioner as such has the access through pathway.

5. The learned Additional Government Pleader appearing for the respondents 1 to 6, 8 & 9 has produced the revenue records before this Court to show that the entire properties in survey No.179 is a patta land and the patta had been issued in favour of the several individuals.

6. In such circumstances, this Court finds no merit in the writ petition. This Court cannot direct all the revenue officials to find out the pathway or whether the petitioner is entitled to have any right of enjoyment or easementary right in respect of private patta lands or through the land belonging to the third parties. However, it is open to the petitioner to establish his right of easement by filing a civil suit.



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7. In the result, this writ petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]
30.08.2023

Index : Yes / No
NCC : Yes/No

am

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