



W.P.(MD)No.26300 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 17.07.2023

CORAM

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P(MD)No.26300 of 2022

Ramasamy

... Petitioner

Vs.

- 1.The District Collector,
Thenkasi Collector Office,
Thenkasi District.
- 2.The Revenue Divisional Officer,
R.D.O. Office,
Sankarankovil,
Thenkasi District.
- 3.The Tahsildar,
Tahsildar Office,
Sankarankovil Taluk,
Thenkasi District.
- 4.The Block Development Officer,
Block Development Office,
Sankarankovil,
Thenkasi District.
- 5.The President,
Panthapuli Panchayath Office,
Panthapuli,
Sankarankovil Taluk,
Thenkasi District.



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6.Vijayaragupathi

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the Respondents No.3 to 5 to remove the encroachment based on the 3rd respondent encroachments survey proceedings in Na.Ka.A1/2102/2021 dated 12.08.2022 in Government Natham Land in Survey No. 692/4, in Panthapuli Village, Sankarankovil Taluk, Thenkasi District based on the petitioner's representation on 18.08.2022 and 22.08.2022 within a stipulated time that may be fixed by this Hon'ble Court and pass such further or other order as this Hon'ble Court may deem fit and proper in the nature and circumstance of the case and thus render justice.

For Petitioner : Mr.R.Senthilkumar

For Respondents 1 to 5 : Mr.J.K.Jeyaseelan
Government Advocate

For 6th Respondent : Mr.R.J.Karthick

ORDER

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

The Writ Petition is filed for issuance of a Writ of Mandamus, directing the respondents 3 to 5 to remove the encroachments made in Government Natham Land in Survey No. 692/4, in Panthapuli Village, Sankarankovil Taluk, Thenkasi District, based on the survey report of the third respondent.



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2. The petitioner is one of the resident of Panthapuli Village. It is the case of the petitioner that one of the public street in Survey No. 692/4 in Panthapuli Village is maintained by the local body and the village people are using the same and that the 6th respondent has illegally encroached the same by constructing a house in the street, particularly in a portion of S.No.692/4.

3. The grievance of the petitioner is that the sixth respondent has reduced the extent of street available to the petitioner and other residents in the village. Hence, the petitioner has made representations dated 18.08.2022 and 22.08.2022, requesting the third respondent for removal of encroachment. Since the official respondents have not taken any action, the Writ Petition is filed by the petitioner for removal of encroachment.

4. The Tahsildar, Sankarankovil Taluk, has sent a communication to the learned Government Pleader stating that the encroachment made by the private respondent has been removed. The photographs produced before this Court show that the encroachment is



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by constructing steps in the public road to enable the sixth respondent to get into his house. Like any other houses facing the street, the sixth respondent has built steps without leaving any place between the road and his patta land. The communication received from the Tahsildar concerned indicates that the petitioner has also encroached a portion of the road by putting up construction.

5. Learned Government Advocate appearing for the respondents 1 to 5 has pointed out that the sixth respondent has encroached an extent of 4 square meter by his construction.

6. Learned counsel for the sixth respondent, however, states that he has already sought demarcation of the boundaries and that no measurement or survey was conducted before holding that the sixth respondent has encroached the public road.

7. Learned Government Advocate appearing for the respondents 1 to 5 further submitted that the petitioner has also encroached the public pathway and he has also put up a construction



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without planning approval.

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8. Considering the grievance expressed by the petitioner and sixth respondent, this Writ Petition is disposed of with the following directions:-

The third respondent Tahsildar is directed to conduct a survey in the presence of the petitioner as well as the sixth respondent, after issuing notice to them. After serving the copy of the survey report, if it is found that they have made any encroachment, the third respondent is directed to take action against them in accordance with law for removal of encroachment. The sixth respondent is permitted to use makeshift steps in case the steps to his house is removed. It is open to the fourth respondent – Block Development Officer to initiate action against the petitioner, if he has made unauthorized constructions, after giving opportunity of hearing to him and in the manner known to law. No costs.

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

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NCC : Yes / No

Index : Yes / No

sj



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