



W.P.(MD)No.24572 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.10.2023

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CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.P.(MD)No.24572 of 2023

and

W.M.P.(MD)Nos.20760 & 20761 of 2023

P.Mari

: Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Revenue Divisional Officer,
Arupukottai,
Virudhunagar District.

3.The Tahsildar,
Kariyapatti Taluk,
Virudhunagar District.

4.The Inspector of Police,
Kariyapatti Police Station,
Virudhunagar District.

5.Chinnamuthu



W.P.(MD)No.24572 of 2023

- 6.Chellamoopar
- 7.Muthukaruppan
- 8.Oyyanan
- 9.Mariammal
- 10.Meenakshi
- 11.Paulraj
- 12.Marimuthu
- 13.Muthusamy
- 14.Muthu
- 15.Rajangam

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents 1 to 3 to remove the illegal encroachments made by the respondents 5 to 15 in the plan-marked / Detailed cart track in Survey Numbers 149, 179 and 180 of the Pitchampatti Village and consequentially direct the respondents 1 to 3 to maintain the same as plan-marked / detailed cart track in Pitchampatti Village, S.Kallupatti Revenue Village, Kambikudi Panchayat, Kariapatti Taluk, Virudhunagar District.

For Petitioner

: Mr.T.Lajapathi Roy

Senior Counsel

assisted by Ms.T.Seeni Syed Amma
instructed by Mr.S.Vasanth

For Respondents 1 to 3 : Mr.P.Thilak Kumar

Government Pleader



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W.P.(MD)No.24572 of 2023

For Respondent No.4 : Mr.S.Ravi

Additional Public Prosecutor

ORDER

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

This common order will now dispose of captioned main writ petition ['WP' for the sake of brevity] and captioned two 'Writ Miscellaneous Petitions' ['WMPs' in plural and 'WMP' in singular for the sake of brevity and clarity].

2.In the admission board, Mr.Lajapathi Roy, learned Senior Advocate instructed by Ms.Seeni Syed Amma Counsel on record and assisted by Mr.S.Vasanth are before us. Learned Senior Counsel submits that the subject matter of main writ petition is what according to PIL petitioner is a cart track comprised in 'S.No.149, 179 and 180 of Pitchampatti Village, S.Kallupatti Revenue Village, Kambikudi Panchayat, Kariapatti Taluk, Virudhunagar District' [hereinafter 'said cart track' for the sake of convenience and clarity]. It is the case of PIL petitioner that private respondents 5 to 15 in captioned WP have encroached upon said cart track, said cart track is used by about 150 persons in the two hamlets Pitchampatti and S.Kallupatti. This is a common cause and therefore a PIL is learned Senior Counsel's say.



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3.Issue notice to official respondents. Mr.P.Thilak Kumar, learned Government Pleader accepts notice for respondents 1 to 3 and Mr.S.Ravi, learned State Additional Public Prosecutor accepts notice for fourth respondent.

4.On instructions it was submitted by aforementioned State Counsel that the encroachment in said cart track has since been removed and some photographs were also placed before us. Learned Counsel on record for PIL petitioner took instructions and responded by saying that it is a fact that the encroachments have been removed. Under the normal circumstance this by itself would be the end of the road for the captioned PIL. In other words, we would have drawn the curtains on the captioned PIL, but in the case on hand, the alleged encroachers respondents 5 to 15 and / or their predecessors / successors had launched a suit in O.S.No.56 of 2013 on the file of learned District Munsif, Aruppukkottai. This appears to be a representative capacity class action as regards the defendants are concerned. This suit pertains to the cart track also and after full contest it has been dismissed by the trial Court in and by a judgment dated 26.06.2020 and this judgment has been carried in appeal by respondents 5 to 13 vide A.S.No.39 of 2020 on the file of learned Subordinate Judge's Court, Arupukkottai ie., Sub

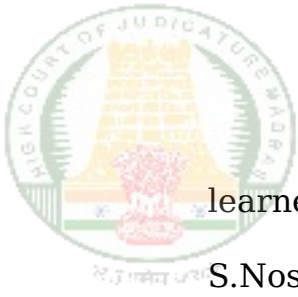


W.P.(MD)No.24572 of 2023

Court, Aruppukkottai and the same is pending. This means that the *lis* is in seizin *qua* the jurisdictional safeguard by way of a regular first appeal under Section 96 of 'the Code of Civil Procedure' [hereinafter 'CPC' for the sake of brevity].

5.Owing to the narrative thus far, we deem it appropriate to make it clear that the first appellate Court namely learned Sub Judge's Court, Aruppukkottai ie., Sub Court, Aruppukkottai, wherein A.S.No.39 of 2020 is pending shall decide the appeal on its own merits and in accordance with law uninfluenced by / untrammelled by this order which has been made for the limited purpose of giving a closure to captioned PIL. We are acutely conscious that captioned main WP and captioned WMPs therein are being disposed of in the admission board when the private respondents 5 to 15 are not before us and this is the reason why we have thought it fit to put in the aforementioned caveat / rider. We also make it clear that caveat / rider will act as a directive to the learned Sub-Judge's Court, Aruppukkottai. Registry to communicate a copy of this order forthwith to learned Sub Judge's Court, Aruppukkottai.

6.We are informed that respondents 14 and 15 have filed suits in O.S.Nos.137 and 112 of 2022, respectively on the file of



W.P.(MD)No.24572 of 2023

learned District Munsif, Aruppukkottai for declaration pertaining to S.Nos.180/8B and 180/10A. We make it clear that these two suits will also proceed on their own merits and in accordance with law uninfluenced by / untrammelled by this order which has been made for the limited purpose of giving a closure to captioned PIL. We deem it appropriate to add that any other suits exercising the civil right by any person pertaining to said cart track shall also proceed on its own merits and in accordance with law uninfluenced by / untrammelled by this order.

7.Captioned writ petition is disposed of and captioned WMPs are disposed of as closed, in the aforesaid manner. There shall be no order as to costs.

[M.S.,J.] & [R.S.V.,J.]
13.10.2023

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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W.P.(MD)No.24572 of 2023

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W.P.(MD)No.24572 of 2023

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R.SAKTHIVEL, J.

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ORDER MADE IN
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