



W.P.No.18969 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.18969 of 2022

Umaiyan

.. Petitioner

Vs.

1. The District Collector
Kallakurichi District
Kallakurichi.

2. The Revenue Divisional Officer
Kallakurichi District
Kallakurichi.

3. The Block Development Officer
Ulundurpet Taluk
Kallakurichi.

4. The Tahsildar
Ulundurpet Taluk
Kallakurichi District.

5. Elumalai

6. Sankar

7. Suresh

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the respondents 1 and 2 to proceed with the notice issued under the 1905 Act and remove the encroachments in survey No.275/2 in Neyvanai Village, Ulundurpettai Taluk, Kallakurichi District within a time frame fixed by this Court.

For the Petitioner : Mr.B.Abdul Samath

For the Respondents : Mr.C.Kathiravan
Special Government Pleader
for Respondents 1, 2 & 4

Mr.C.Munusamy
for Respondent-5

No appearance
for Respondent-6

Not ready in notice
for Respondent-7

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.B.Abdul Samath, learned counsel for the petitioner, Mr.C.Kathiravan, learned Special Government Pleader for the respondents 1, 2 and 4 and Mr.C.Munusamy, learned counsel for the fifth respondent.



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2. The fifth respondent is issued with a notice for removal of encroachment in Survey No.275/12, which is classified as road poramboke. The manner of encroachment is "fencing".

3. Learned counsel for the fifth respondent submits that there is no other way of ingress and egress for the fifth respondent. The fifth respondent has filed a civil suit bearing No.169 of 2021 against the Government officials and the same is pending.

4. No person has got right to encroach upon a road which is meant for the public at large. No doubt, the fifth respondent would also have a right of ingress and egress to his property. However, he would not have a right to fence so as to obstruct others.

5. In case the fifth respondent has an order of injunction in his favour, then, certainly, the respondent officials cannot proceed further pursuant to the said notice. However, if the order of injunction is not granted in favour of the fifth respondent, the Government officials can



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proceed further for removal of encroachment in accordance with law and by following due process of law.

6. The writ petition is disposed of. There shall be no order as to costs.

(S.V.G., C.J.)

(J.S.N.P., J.)

01.04.2024

Index : Yes/No
Neutral Citation : Yes/No

kpl

To

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THE HON'BLE CHIEF JUSTICE
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