



W.P.No.9576 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **K.RAJASEKAR**

W.P.No.9576 of 2021

P.Karthikeyan

... Petitioner

VS

1.The District Collector,
Vellore District,
Sathuvachari,
Vellore.

2.The Tahsildar,
Gudiyatham Taluk,
Vellore District.

3.The Village Administrative Officer,
Erthangal Village,
Gudiyatham Taluk,
Vellore District.

4.Seenen

5.Anbu

6.Viswanathan

... Respondents

Writ Petition filed under Article 226 of The Constitution of India,

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1950 praying to issue a Writ of Mandamus directing the respondents 1 to 3 to restore the channel/pathway in Survey No.29/2, Erthangal village to its original 6 ft width and provide access to the petitioner and his family.

For Petitioner : Mr.K.Sivasubramanian
For R1 to R3 : Mr.T.K.Saravanan
Government Advocate
For R4 to R6 : No appearance

ORDER

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

Captioned 'Writ Petition' ['WP' for the sake of brevity] has been filed with a mandamus prayer seeking to direct the respondents 1 to 3 [official respondents] to restore channel/pathway in Survey No.29/2 in Erthangal Village, Gudiyatham Taluk, Vellore District [hereinafter 'said pathway' for the sake of convenience and clarity].

2.Respondents 1 to 3 are official respondents and respondents 4 to 6 are private respondents. Mr.K.Sivasubramanian, learned counsel for writ petitioner is before us and according to learned counsel for writ petitioner,



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respondents 4 to 6/private respondents are the alleged encroachers.

Respondents 4 to 6 have entered appearance through counsel Mr.M.Kalaiyaran and co-counsel Mr.J.Jayaprakasam and name of the counsel is duly shown in the cause list but there is no representation today.

3.Learned State Counsel Mr.T.K.Saravanan on instructions submitted that Survey No.29/2 in Erthangal Village, Gudiyatham Taluk, Vellore District is a pathway and not a channel. Though the writ petitioner has chosen to describe the same as channel/pathway, saying so, the learned State counsel submitted that a survey will be conducted and post survey action under 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' [hereinafter 'said 1905 Act' for the sake of brevity, convenience and clarity] will be initiated. In post survey scenario, if no encroachment is found, that will be the end of the matter but if encroachment is found and if action is initiated under the said 1905 Act, alleged encroachers including R4 to R6 will be show caused under Section 7 of the said 1905 Act. Therefore, the interest of R4 to R6 is preserved. To add specificity, we make it clear that all the rights and contentions of respondents 4 to 6 are preserved, if action



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under the said 1905 Act is initiated, i.e., when R4 to R6 and other encroachers (if any), are show caused (if that be so, subject ofcourse to survey).

4.As the rights and contentions of private respondents are preserved, we deem it appropriate to dispose of the WP though the private respondents having entered appearance through counsel, have not chosen to come before this Court.

5.We dispose of the captioned WP recording the stated position of the State counsel. There shall be no order as to costs.

(M.S.,J.)

(K.R.S.,J.)

02.12.2024

Index : Yes / No

Internet : Yes/No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

rsi

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To

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**M.SUNDAR, J.,
and
K.RAJASEKAR, J.,**

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