



WEB COPY



W.P.No.35986 of 2024

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.35986 of 2024

Perumal
S/o.Pazhanimuthu

... Petitioner

Vs.

1. The District Collector
Salem District
Salem.
2. The Revenue Divisional Officer
Sankagiri
Salem.
3. The Tahsildar
Edappaddi Taluk
Salem District
Salem.
4. Azhaguraj
S/o.Muthu Gounder
5. K.Mani
S/o.Late Kuppanna Gounder

... Respondents

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Prayer :

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus to direct the respondents 1 to 3 herein to remove the encroachments made in S.Nos.249/2D, 240/1B and 234/2B of Koranampatti Village, made by the 4th and 5th respondents herein, pursuant to the order of the 2nd respondent, passed on 06.09.2022 under Na.Ka.No.1799/2021/C and to restore the said cart track by invoking the Land Encroachment Act, 1905 by considering the petitioner's representation dated 25.10.2024.

For Petitioner : Mr.R.Vivek
For Respondents : Mr.T.K.Saravanan
Government Advocate
for R1 to R3

ORDER

[Order of the Court was made by **K.RAJASEKAR, J.,**]

This writ petition has been filed seeking a mandamus to direct the respondents 1 to 3 herein to remove the encroachments made in S.Nos.249/2D, 240/1B and 234/2B of Koranampatti Village by the 4th and 5th respondents herein, pursuant to the order of the 2nd respondent, passed on 06.09.2022 bearing reference Na.Ka.No.1799/2021/C and to restore the



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said cart track by invoking the Land Encroachment Act, 1905 by considering the petitioner's representation dated 25.10.2024.

2. It is the case of the writ petitioner that he and other villagers uses the said cart track situate in S.No.250 which connects to S.No.249 and runs through various survey numbers to access their respective agricultural lands. It is the further case of the writ petitioner that R4 and R5 (private respondents) had encroached the said public cart track by planting coconut trees and banana saplings in order to prevent the petitioner and other villagers from using the cart track in S.No.249/2D. The petitioner and villagers had given a complaint and based on enquiry, an order dated 06.09.2022 bearing reference Na.Ka.No.1799/2021/C came to be passed by second respondent and third respondent was directed to remove the encroachment made in S.No.249/2D and to restore the same for the use of the general public. In spite of the direction given, no action was taken till date.

3. Issue notice to official respondents i.e., R1 to R3.

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WEB COPY 4. Mr.T.K.Saravanan, learned Government Advocate accepts notice for R1 to R3.

5. Mr.T.K.Saravanan, learned State Counsel submits that for the very same subject land, earlier a writ petition in W.P.No.4076 of 2024 has been preferred by one K.Venkatachalam and it was reported that already a civil suit for injunction was filed and the same was also decreed. Based on the above submission, another Hon'ble Division Bench disposed of the writ petition vide order dated 21.02.2024 directing the writ petitioner therein to file an execution petition.

6. Considering the facts and circumstances of the case, we are of the view that the order dated 21.02.2024 in W.P.No.4076 of 2024 passed by another Hon'ble Division Bench is squarely applicable to the case on hand. In the light of the submissions made, we dispose of the writ petition by holding that the dispute appears to be of easementary right and if the decree of injunction is violated, the petitioner can file an execution petition for

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executing the decree of injunction.

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This Writ Petition is disposed of on the same terms i.e., order dated 21.02.2024 in W.P.No.4076 of 2024. There shall be no order as to costs.

(M.S.,J.) (K.R.S.,J.)
02.12.2024

Index : Yes / No
Neutral Citation : Yes / No
Speaking order / Non-speaking order

mk

To

1. The District Collector
Salem District
Salem.
2. The Revenue Divisional Officer
Sankagiri
Salem.
3. The Tahsildar
Edappaddi Taluk
Salem District
Salem.

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M.SUNDAR, J.,

and

K.RAJASEKAR, J.,

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