



W.P.(MD)No.2855 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2024

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CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P.(MD)No.2855 of 2023

and

W.M.P.(MD)No.19063 of 2023

Eswari

: Petitioner

Vs.

1.The District Collector,
Virudhunagar District.

2.The Block Development Officer,
Kariyapatti Panchayat Union,
Virudhunagar District.

3.The Tahsildar,
Kariyapatti Taluk,
Virudhunagar District.

4.Rajasekar

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the original notice of the third respondent dated 07.12.2022 and quash the same as illegal and



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consequently direct the respondents to remove the encroachments made by the fourth respondent by way of fencing in Survey No. 94/1H3B1, Aviyur Village, Kariyapatti Taluk, Virudhunagar District within the time stipulated as prescribed by this Court by considering the petitioner's representation dated 21.01.2023.

For Petitioner : Mr.R.L.Dhilipan Pandian
For Respondents 1 to 3 : Mr.N.Satheesh Kumar
Additional Government Pleader
For Respondent No.4 : Mr.P.Suresh Kumar

O R D E R

[Order of the Court was made by **D.KRISHNAKUMAR, J.**]

The present Writ Petition has been filed seeking to quash the original notice of the third respondent dated 07.12.2022 and for a consequential direction to the respondents to remove the encroachments made by the fourth respondent by fencing Survey No.94/1H3B1, Aviyur Village, Kariyapatti Taluk, Virudhunagar District, by considering the petitioner's representation dated 21.01.2023.

2. Heard Mr.R.L.Dhilipan Pandian, learned Counsel for the petitioner, Mr.N.Satheesh Kumar, learned Additional Government Pleader appearing for the respondents 1 to 3 and Mr.P.Suresh Kumar, learned Counsel appearing for the fourth respondent.



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3.According to the petitioner, the property in question in Survey No.94/1H3B1 is a pathway and the same has been encroached by the fourth respondent and hence, the petitioner has made a representation to the authorities concerned for removal of the encroachment. The third respondent has rejected his claim stating that the said property is classified as private land and therefore, no action can be taken by the respondents. Challenging the said rejection order, the present writ petition has been filed.

4.The learned Counsel for the petitioner by relying upon the FMB sketch submitted that there is a pathway and the same has been placed before this Court.

5.The learned Additional Government Pleader on instructions and by relying upon the 'A' Register submitted that the said land belongs to one Duraisamy and therefore, the contention of the petitioner is not correct and the same is liable to be rejected.

6.The learned Counsel for the petitioner strongly relying upon the documents has made an attempt to show before this Court that the property in question is a pathway and the same has been encroached by the fourth respondent. He also relied upon other correspondences, where the respondents have informed to survey



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the aforesaid property by the Taluk Surveyor. All these aspects are disputed facts. Therefore, we are not inclined to interfere with the same, sitting under article 226 of the Constitution of India.

7.The FMB sketch shows that it is a pathway but the revenue records shows that it is a private land belonging to one Duraisamy. Therefore, when there is a dispute with regard to the classification of the property and when there is a specific denial by the revenue authorities, the petitioner has to only approach the competent Civil Court.

8.Accordingly, this Writ Petition is disposed of, with liberty to the petitioner to approach the competent Civil Court by filling a suit. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[D.K.K.,J.] & [P.D.B.,J.]

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Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

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ORDER MADE IN
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