



W.P(MD)No.10840 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2024

CORAM :

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.P(MD)No.10840 of 2024

L.Santiagu

... Petitioner

vs.

1. The District Collector,
Sivagangai,
Sivagangai District.

2. The Tahsildar,
Ilayangudi,
Sivagangai District.

3. Mr.Selvaraj ... Respondents
(R3 impleaded vide order dated 03.12.2024 in WMP(MD)No.10800/2024)

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to take action based on the proceedings of the 1st respondent dated 20.10.2023 in Na.Ka.E4/10795/2023 and remove the encroachment.

For Petitioner : Mr.FR.S.Savarimuthu
For R1 & R2 : Mr.S.Shaji Bino

Additional Government Pleader



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ORDER

(Order of the Court was made by **M.S.RAMESH, J.**)

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This writ petition has been filed for a Mandamus, directing the 2nd respondent to take action based on the proceedings of the 1st respondent dated 20.10.2023 in Na.Ka. E4/10795/2023, and remove the encroachment.

2. The learned counsel appearing for the petitioner would submit that Survey No.288/35 of Nanniyavoor Village, Ilayankudi Taluk, is a common pathway classified as Government poramboke in the revenue records. However, the 3rd respondent herein has encroached upon the said common pathway and constructed a house therein. On behalf of the villagers, the petitioner made a representation dated 04.10.2023 to the respondents to remove the said encroachment. Pursuant to the same, the 1st respondent/District Collector directed the 2nd respondent/Tahsildar to take action on the petitioner's representation. Finding that the direction of the District Collector is not acted upon, the petitioner has come forward with this writ petition, for the above said relief.

3. Heard both sides.



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4. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon him to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of the Constitution of the India and direct them to consider the same within a stipulated time.

5. In the light of the above observations, there shall be a direction to the respondents to consider the petitioner's representation dated 04.10.2023, on its own merits and pass appropriate orders in accordance with law, after giving due opportunity to the petitioner, private respondent, as well as all other persons, who may be interested in the subject property, within a period of three months from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any of its views with regard to the merits of the matter and that it is open to the concerned respondents to consider the same on its own merits.



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6. With the above direction, the Writ Petition stands disposed of. No costs.

(M.S.R, J.) (A.D.M.C, J.)
03.12.2024

Index : Yes / No
Neutral Citation : Yes / No
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To

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M.S.RAMESH, J.
and
A.D.MARIA CLETE, J.

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ORDER MADE IN
W.P(MD)No.10840 of 2024
DATED : 03.12.2024