



W.P(MD)No.12378 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

W.P(MD)No.12378 of 2024

Kaleeswaran

... Petitioner

VS.

1.The District Collector/Monitoring Committee,
Virudhunagar District.

2.The Revenue Divisional Officer,
Sivakasi,
Virudhunagar District.

3.The Tahsildar,
Srivilliputtur,
Virudhunagar District.

4.C.Kalimuthu

5.P.Kalimuthu

6.R.Govindhan

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 herein to remove the encroachment in the pathway in Survey No.37 which is situated at N.Shanmugasundarapuram Village, Srivilliputtur Taluk,



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Virudhunagar District which leads to the Panchayat Union School, within the stipulated time fixed by this Court by considering the petitioner's representation dated Nil to the second respondent.

For Petitioner : Mr.S.Ramasamy

For Respondents : Mr.P.Thilak Kumar
Government Pleader
for R.1 to R.3

ORDER

(Order of the Court was made by R.SURESH KUMAR, J.)

The prayer sought for in this Writ Petition is for a Writ of Mandamus, to direct the respondents 1 to 3 to remove the encroachment in the pathway in Survey No.37, which is situated at N.Shanmugasundarapuram Village, Srivilliputtur Taluk, Virudhunagar District which leads to the Panchayat Union School, within the stipulated time fixed by this Court, by considering the petitioner's representation dated Nil to the second respondent.

2.The dispute is pertaining to Survey No.37 at N.Shanmugasundarapuram Village, Srivilliputtur Taluk, Virudhunagar District. It is the claim of the petitioner that it is a pathway which is being encroached upon by the private respondents by putting up fence. Therefore,



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in order to remove such encroachment, he has moved the present Writ Petition.

3.Mr.P.Thilak Kumar, learned Government Pleader, who accepts notice for the official respondents 1 to 3 would point out that as per 'A' register, which has also been filed by the petitioner, the entire sub-divisions of Survey No.37 are patta lands of various persons including the private respondents and in this regard, even though an attempt has been made to cancel the patta, patta is yet to be cancelled and since these lands in question are patta lands, the question of alleged encroachment of the private respondents does not arise, he contended.

4.We have gone through the materials placed before this Court and have taken note of the submission made by both sides.

5.As has been pointed out by the learned Government Pleader since the entire Survey No.37 has been shown in the 'A' register as a patta land for various individuals including the private respondents, it cannot be stated prima facie that it is a Government land, therefore, there has been an encroachment.



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6.Assuming that it is a Government land which has been wrongly given patta to any third parties, it is for the revenue authorities to decide the same, for which, the law can be set in motion by the petitioner or any other interested persons with the revenue authorities. So long as the land is considered to be the patta land, the question of taking any action against the private individuals on the alleged reason for encroachment of the land concerned is not possible. Therefore, the prayer sought for in this Writ Petition cannot be granted.

7.Hence, recording the aforestated, this Court is inclined to dismiss the Writ Petition. Accordingly, it is dismissed. However, there shall be no order as to costs.

[R.S.K.,J.] [G.A.M.,J.]
12.06.2024

NCC : Yes / No
Index : Yes / No
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