



W.P.(MD) No.19074 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

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Mrs.M.Jothi

... Petitioner

-VS-

1.The District Collector,
Collectorate Office,
Virudhunagar,
Virudhunagar District.

2.The Commissioner of Municipality/Monitoring Committee,
Rajapalayam Municipality,
Rajapalayam,
Virudhunagar District.

3.The Thasildar,
Rajapalayam,
Virudhunagar District.

4.The Land Surveyor,
Rajapalayam Municipality,
Rajapalayam,
Virudhunagar District.

5.Mrs.Sangarammal

... Respondent



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents herein to remove the encroachment made by the fifth respondent in T.Sr.No.77 Rajapalayam town within the time stipulated by this Court or in alternate to issue a Writ of Mandamus directing the respondents herein to transfer the revenue records and grant the petitioner only 4th item of property in the name of the petitioner in T.Sr.No.77 Rajapalayam town within the time stipulated by this Court.

For Petitioner : Mr.M.Vijayarathinam

For RR1, 3 and 4 : Mr.S.P.Maharajan,
Special Government Pleader

For R-2 : Mr.N.Dilipkumar

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

Mr.S.P.Maharajan, learned Special Government Pleader takes notice for respondents 1, 3 and 4.

2. Mr.N.Dilipkumar, learned Standing Counsel takes notice for the second respondent.



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3. The petitioner seeks a Writ of Mandamus for eviction of encroachment on the ground that the fifth respondent has encroached upon a public pathway. There has been civil proceedings between the parties where the rights of the parties have been declared by the competent civil Courts.

4. We are of the *prima facie* view that the petitioner's claim may now will militate against the decree granted by the civil Court. Since there is a dispute regarding the very nature of the land which cannot be conveniently gone into in the proceedings under Article 226 of the Constitution of India, this writ petition is dismissed leaving it open to the petitioner to approach appropriate civil Court. No Costs.

[R.S.M., J.]

[L.V.G., J.]

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NCC : Yes/ No

Index : Yes/ No

Internet : Yes

PM



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