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W.P.(MD) No.4394 of 2015

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 09.01.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR  
and  
THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR**

**W.P.(MD) No.4394 of 2015**

**and**

**M.P.(MD) No.1 of 2015**

E.Esakkiammal

... Petitioner

-VS-

1.The District Collector  
Tirunelveli District  
Tirunelveli

2.The Revenue Divisional Officer  
Tirunelveli  
Tirunelveli District

3.The Tahsildar  
Tirunelveli  
Tirunelveli District

4.The India Cements Private Limited  
rep.by its Managing Director N.Srinivasan  
Sankar Nagar  
Tirunelveli District

... Respondents



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**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 3 to remove the encroachment made by the fourth respondent in Vandipathai Poramboke in Survey No.720/2, Naranammalpuram Village, Tirunelveli District, based on the report of the third respondent vide his proceedings in Na.Ka.No.Aa3/11193/14, dated 17.10.2014 and consequently directing the respondents 1 to 3 to lay road survey number survey No.720/2 in Naranammalpuram Village, Tirunelveli District, enabling the people of Thathannuthu Village, Tirunelveli District, to reach the burial ground.

For Petitioner : Mr.R.Pon Karthikeyan

For Respondents : Mr.P.Thilakkumar  
Government Pleader for R1 to R3  
Mr.C.Seethapathy for R4

### **ORDER**

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

Prayer in this writ petition is to direct the respondents 1 to 3 to remove the encroachment made by the fourth respondent in Vandipathai Poramboke in Survey No.720/2 of Naranammalpuram Village, Tirunelveli District, based on the report of the third respondent *vide* his proceedings in



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Na.Ka.No.Aa3/11193/14, dated 17.10.2014 and consequently directing the respondents 1 to 3 to lay a road in the said survey number enabling the people of Thathannuthu Village, Tirunelveli District, to reach the burial ground.

**2.** According to the petitioner, the fourth respondent has encroached upon the subject land and due to which, the pathway leading to the burial ground is blocked.

**3.** The Tahsildar / third respondent has filed a counter affidavit.

Paragraph No.4 of the counter affidavit reads as follows:

*“4.It is humbly submitted that admittedly a portion of the pathway S.No.720 is compounded by the 4th respondent for a long time and the 4th respondent submitted an application for ready to pay land value which is pending before the District Collector for consideration in Tirunelveli Collector letter No.G1/41218/2014, dated 16.10.2014. As per RSO 260 A1 the land exchange is permissible as per law and as per the monitory jurisdiction the District Collector or the Government is having power to pass order in the matter of exchange of land.”*



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**4.** It is not in dispute that the fourth respondent has encroached upon the subject land. Hence, the fourth respondent has to remove the encroachment made by him in the subject land within a period of six weeks from the date of receipt of a copy of this order, failing which the official respondents shall take necessary action for removal of encroachment in the manner known to law. However, in the meantime, if the Government has considered the request of the fourth respondent for grant of patta in respect of the subject land, within a period of four weeks, thereafter, the fourth respondent has to make alternative arrangement for the village people to reach burial ground, as requested by the petitioner. It is made clear that no extension of time will be granted at any costs.

**5.** Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

**[D.K.K., J.]**

**[M.S.K., J.]**

**09.01.2024**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No

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- 1.The District Collector,  
Tirunelveli District,  
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- 2.The Revenue Divisional Officer,  
Tirunelveli,  
Tirunelveli District.
- 3.The Tahsildar,  
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