



W.P.(MD) No.993 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.02.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD) No.993 of 2016
and
W.M.P.(MD) No.800 of 2016**

1.A.P.Marimuthu

2.P.Murugesan

3.Maruthayee

... Petitioners

-VS-

1.The District Collector
Tiruchirappalli District
Tiruchirappalli

2.District Revenue Officer
Tiruchirappalli District
Tiruchirappalli

3.The Revenue Divisional Officer
Tiruchirappalli District

4.The Tahsildar
Srirangam Taluk
Tiruchirappalli District

5.The Commissioner
Anthanallur Panchayath Union
Anthanallur & Post
Srirangam Taluk
Tiruchirappalli District



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6.Pettaivaithalai Panchayat
rep.by its President
Pettaivaithalai & Post
Srirangam Taluk
Tiruchirappalli District

7.Kanagasabapathy

8.Karthik

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the third respondent / Revenue Divisional Officer to initiate proceedings under Section 133 of the Criminal Procedure Code and remove the obstruction / encroachment from the east – west Thannir Pathai @ Bajnai Madam Street, situate at 137/11, Devasthanam, Pethavathalai Village, Tiruchirappalli District and in the interregnum forbear the respondents 7 and 8 from proceeding further with the constructions in the said east – west Thannir Pathai @ Bajnai Madam Street.

For Petitioners : Ms.J.Maria Roseline

For Respondents : Mr.S.P.Maharajan
Special Government Pleader for R1 to R4
Mr.R.Sundar for R7 & R8



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ORDER

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

Prayer in this writ petition is to direct the third respondent to initiate proceedings under Section 133 of the Criminal Procedure Code and remove the obstruction / encroachment from the east – west Thannir Pathai @ Bajnai Madam Street, situate at 137/11, Devasthanam, Pethavathalai Village, Tiruchirappalli District and in the interregnum forbear the respondents 7 and 8 from proceeding further with the constructions in the said east – west Thannir Pathai @ Bajnai Madam Street.

2. According to the petitioners, the subject street is a “Government Poramboke” as per the revenue records. On the earlier occasion, when one Pitchaiyammal and Pitchaikutti attempted to encroach upon the subject street, the petitioners, on their behalf and also on behalf of the villagers, filed a suit in O.S.No.1007 of 2001, on the file of the II Additional District Munsif, Tiruchirappalli, for mandatory injunction and the said suit, by Judgment and decree, dated 30.03.2010, was decreed. However, subsequently, the respondents 7 and 8 attempted to make constructions in the subject street by depriving the access available to the residents of the locality. Therefore, the petitioners filed W.P.(MD) No.17610 of 2015 and this



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Court, by order dated 30.09.2015, referring G.O.Ms.No.540, Revenue LD6(2) Department, dated 04.12.2014, directed the petitioners to approach the competent authority for redressal of their grievance. Pursuant to the directions issued by this Court in the said writ petition, though the petitioners approached the authority concerned, their grievance has not been redressed. Hence, they have filed the present writ petition.

3. The Revenue Divisional Officer, Srirangam / third respondent has filed a counter affidavit stating that as per the revenue records, the subject street has been classified as Sarkar Poramboke. Out of the total extent of 72 sq.mts. of land, Krishnan Temple has been constructed for an extent of 32 sq.mts. and the remaining vacant land has been utilized as a pathway leading to Survey No.261/1 for the residents of Survey No.137/10. That apart, petitioners as well as the residents of the locality are using the pathway in Survey No.137/12, which is marked as Boosthuthi Santhu in the Natham Adangal.

4. Further, it is stated in the counter affidavit that on the southern side of the above survey number, Survey No.137/17 has been recorded as Sarkar Manai in the Natham Adangal and Patta has been granted



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to one Pitchai Ammal, who purchased the same from Sellayi Ammal and Balasubramanian under a document registered as Document No.187 of 1978. In the said survey number, the legal heirs of Pitchai Ammal constructed a pucca terraced house and they are in enjoyment of the said land, as per Natham Adangal. However, according to the legal heirs of the said Pitchai Ammal, they are in possession of only 04.00 Cents out of 05.00 Cents of land purchased by their ancestor Pitchai Ammal and the remaining 01.00 Cent of land is the vacant land in Survey No.137/11, mentioned as Bajanai Madam. Further, they are objecting to use the said survey number as a pathway.

5. Further, it is categorically admitted in the counter affidavit that as per the revenue records, the subject street is a Sarkar Poramboke and the respondents 3 and 4 have made a joint field inspection in the subject street on 24.01.2024.

6. On a careful perusal of the counter affidavit filed by the third respondent, it is seen that though the legal heirs of Pitchai Ammal are objecting to use the subject street as a pathway, the third respondent has categorically admitted that the subject street is classified as Sarkar Poramboke in the revenue records. In such circumstances, we are of the view



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that when a land is classified as Sarkar Poramboke in the revenue records, at any circumstances, encroachments cannot be made depriving the rights of the residents of the locality. Hence, we are of the view that it would be appropriate to direct the official respondents to take necessary action for removal of encroachments in the subject street in accordance with law.

7. Accordingly, this writ petition is disposed of with a direction to the official respondents to remove the encroachments made by the 7 and 8 in the subject street in the manner known to law, after providing due opportunity to the parties concerned, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.]

[R.V., J.]

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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