



WP(MD). No.29989 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.S. RAMESH
AND
THE HONOURABLE Dr.JUSTICE A.D.MARIA CLETE

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Kasimuthu

... Petitioner

Vs

1. The District Collector,
Office of the Collectorate Building,
Sivagangai District..

2. The Revenue Divisional Officer,
Office of the Collectorate Building,
Sivagangai District..

3. The Tahsildar,
O/o. the Tahsildar,
Manamadurai Taluk, Sivagangai District..

4. Balasubramanian,
5. Velmurugan,

... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent No.1 to 3 to remove the illegal encroachment in the pathway in Survey No.190/5 situated at Vellikutichimadai Kudiyiruppu,



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Manamadurai Taluk, Sivagangai District made by respondent No.4 and 5 by put up Asbestos Sheet and Tile Roof Construction in the light of the proceeding in Na.Ka. No. A4/2627/2024 dated 27.08.2024 by the 3rd respondent and ensure to lying road so as to use the pathway to the public by considering the petitioner's representations dated 11.09.2023, 18.12.2023 and 12.07.2024.

For Petitioner : Mr.D.S.Haroon Rasheed
For Respondents : Mr.P.Thilak Kumar for R1 to R3
Government Pleader

ORDER

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

By consent of both sides, the writ petition itself is taken up for final disposal at the stage of admission itself.

2. Since no adverse order is going to be passed against the respondents 4 and 5, notice to the respondents 4 and 5 dispensed with.

3. The petitioner has filed this writ petition for a mandamus to direct respondents 1 to 3 to remove the illegal encroachment in the pathway in Survey No.190/5 situated at Vellikutichimadai Kudiyiruppu, Manamadurai Taluk, Sivagangai District made by respondents 4 and 5 by



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put up Asbestos Sheet and Tile Roof Construction in the light of the proceeding in Na.Ka. No. A4/2627/2024 dated 27.08.2024 by the 3rd respondent and ensure to laying road so as to use the pathway to the public by considering the petitioner's representations dated 11.09.2023, 18.12.2023 and 12.07.2024.

4. In order to remove the encroachment alleged to have been made in the aforesaid survey number, the petitioner has given a representation to the official respondents on 12.07.2024. Since the said representation has not been considered so far, the petitioner is before this Court with this petition.

5. It is needless to point out that whenever a representation of this nature is made to Statutory Authorities, there is a duty cast upon them 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



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of the India and direct them to consider the same within a stipulated time.

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6. In the light of the above observations, there shall be a direction to the respondents 1 to 3 herein to consider the petitioner's representation dated 12.07.2024 on its own merits and pass appropriate orders in accordance with law, after giving due opportunity to the petitioner and the respondents 4 and 5 and 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.

7. With the above direction, the Writ Petition stands disposed of.

No costs.

[M.S.R.,J]

[A.D.M.C.,J]

12.12.2024

NCC : Yes/No

Index : Yes/No

RR

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O/o. the Tahsildar,
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M.S. RAMESH, J.
AND
A.D.MARIA CLETE, J.

RR

ORDER
IN
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Date : 12/12/2024