



W.P.No.23651 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 01.07.2025

CORAM

THE HONOURABLE MR. JUSTICE M.SUNDAR

and

THE HONOURABLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P.No.23651 of 2025

Balasubramaniam

Petitioner

vs.

1. The District Collector
Puducherry
2. The Tahsildar
Bahour
Puducherry
3. The Commissioner
Nettapakkam Commune Panchayat
Puducherry
4. The Director
Forest and Wild Life Department
Puducherry
5. A. Nagapushpam

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 4 to restore the pathway in R.S.No.58/6, Sooramangam, Nettapakkam Commune Panchayat, Puducherry, by removing the encroachments within a stipulated time frame.

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For petitioner	Mr. C. Umashankar
For RR 1 to 4	Mr. R. Sreedhar Addl. Govt. Pleader (Pudhucherry)

ORDER

[made by M.SUNDAR, J.]

The captioned writ petition has been filed seeking issuance of a Writ of Mandamus directing the official respondents to restore the pathway in R.S. No.58/6, Sooramangam Village, Nettapakkam Commune Panchayat, Puducherry, by removing the alleged encroachments made by the fifth respondent.

2. It is the case of the petitioner that he had previously approached this Court in W.P. No.22691 of 2021, seeking removal of the encroachments allegedly made by the fifth respondent. By order dated 27.10.2021, a Division Bench of this Court directed the second respondent-Deputy Tahsildar to conduct a survey of the subject land in the presence of all necessary parties and to submit a report to the third respondent-Commissioner, Nettapakkam Commune Panchayat, within a period of two months. The Division Bench further directed that if, during the course of the survey, any encroachment by the fifth



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respondent was found, the second respondent shall initiate appropriate proceedings for removal of the said encroachment in accordance with law.

3. Alleging non-compliance with the directions issued in the earlier writ petition, the petitioner instituted Contempt Petition No.2066 of 2022 before this Court. By order dated 30.03.2023, this Court closed the contempt proceedings, observing that the trees located on the subject land could not be treated as encroachments and that no contempt was made out.

4. Subsequent to the said order, the petitioner, along with similarly situated individuals, submitted a representation to the Forest Department requesting the removal of trees from the said land. The petitioner asserts that pursuant to the said representation, the Forest Department removed the trees. However, the petitioner now contends that the fifth respondent has fenced the subject land, thereby preventing him and other villagers from accessing their agricultural lands.



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5. Upon hearing the matter, notice was ordered to the official respondents. Mr. R. Sreedhar, learned Additional Government Pleader (Puducherry), accepts notice on behalf of respondents 1 to 4.

6. The petitioner has produced certain photographs to demonstrate the alleged fencing and obstruction over the subject land, which is claimed to be a public pathway. However, the question of whether the fifth respondent has encroached upon the land in R.S. No.58/6 is a factual determination that can only be ascertained by conducting a proper field survey in the presence of the concerned parties.

7. In the interest of justice and to ensure that all parties are duly heard, this Court is of the considered view that a survey of the subject land must be undertaken with due notice and participation of the petitioner, the fifth respondent, and any other necessary parties. Since the rights and contentions of the fifth respondent are preserved, formal notice to the fifth respondent is dispensed with for the present, and the following directions are issued:

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- i. The second respondent–Deputy Tahsildar, Villianur Taluk Office, shall conduct a survey of the subject land in R.S. No.58/6, Sooramangam Village, in the presence of the petitioner, the fifth respondent, and all other relevant stakeholders. A detailed report shall be drawn up and submitted to the third respondent–Commissioner, Nettapakkam Commune Panchayat, within a period of six weeks from the date of this order, i.e., on or before 12.08.2025.
- ii. In the event the survey reveals that any portion of the said land has been encroached upon by the fifth respondent or any other individual(s), the second respondent shall initiate appropriate proceedings for removal of such encroachments in accordance with law, and shall ensure completion of the said process within six weeks from the date of submission of the survey report, i.e., on or before 23.09.2025.
- iii. With respect to the petitioner’s prayer for restoration of the public pathway, the same shall be duly considered by the first respondent–District Collector, Puducherry, in light of the petitioner’s representation dated 18.01.2025, and appropriate orders shall be passed within a period of six weeks from the date of removal of encroachment if any, i.e., on or before 04.11.2025.



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8. The writ petition is accordingly disposed of with the above directions. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
01.07.2025

Cad
Index : Yes/No
Internet :Yes/No
Neutral Citation :Yes/No

To

1. The District Collector
Puducherry
2. The Tahsildar
Bahour
Puducherry
3. The Commissioner
Nettapakkam Commune Panchayat
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4. The Director
Forest and Wild Life Department
Puducherry

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M.SUNDAR, J.

and

HEMANT CHANDANGOUDAR, J.

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ADDENDUM
W.P. No.23651 of 2025

M.SUNDAR, J.
and
HEMANT CHANDANGOUDAR, J.

(Order of the Court was made by HEMANT CHANDANGOUDAR, J.)

At the instance of learned counsel for writ petitioner, captioned matter is listed today under the cause list caption 'FOR BEING MENTIONED' on the ground that at paragraph 7(ii) of the order dated 01.07.2025 disposing of the captioned writ petition, the authority directed to initiate Removal of Encroachments (RoE) proceedings should read as 'third respondent' and not 'second respondent'.

2. Today, Mr. C. Umashankar, learned counsel on record for writ petitioner and Mr. R. Sreedhar, learned Additional Government Pleader (Pudhucherry), are before us.

3. Having heard the learned counsel on record for writ petitioner and also learned Additional Government Pleader (Puducherry), it cannot be said that second respondent is not the appropriate authority to initiate RoE proceedings. Alternatively, we



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write that both second respondent and third respondent are appropriate authorities to initiate RoE proceedings. In this view of the matter, paragraph 7(ii) of order dated 01.07.2025 shall read as follows:

ii. In the event the survey reveals that any portion of the said land has been encroached upon by the fifth respondent or any other individual(s), the second respondent/third respondent shall initiate appropriate proceedings for removal of such encroachments in accordance with law, and shall ensure completion of the said process within six weeks from the date of submission of the survey report, i.e., on or before 23.09.2025.

4. Besides the above, we stumbled upon two more mistakes in the order dated 01.07.2025 and they are as follows:

- i. The order dated 01.07.2025 was not authored by M.SUNDAR, J. but by HEMANT CHANDANGOUDAR, J.; and
- ii. At paragraph 7(i) of the order dated 01.07.2025, the second respondent, instead of being described as 'The Tahsildar, Bahour, Puducherry' has been wrongly described as 'Deputy Tahsildar, Villianur Taluk Office'.



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5. As regards paragraph 4(i) *supra*, the author of the order dated 01.07.2025 shall read as HEMANT CHANDANGOUDAR, J. instead of M. SUNDAR, J.

6. As regards paragraph 4(ii) *supra*, the description of R2, viz., 'Deputy Tahsildar, Villianur Taluk Office', shall stand deleted.

7. Learned counsel on either side agreed to have the aforementioned corrections made. In all other aspects, the order dated 01.07.2025 remains the same. Therefore, this order will now be made as 'Addendum' and Corrigendum / Erratum to 01.07.2025 order already pronounced in open court and already uploaded. This order will now be uploaded as 'ADDENDUM' to / along with order made by this Court on 01.07.2025 and Registry is directed to carry out necessary and consequential corrections.

**(M.S., J.) (H.C., J.)
18.07.2025**

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M. SUNDAR, J.

and

HEMANT CHANDANGOUDAR, J.

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18.07.2025

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