



WEB COPY

W.P. No.37293 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 06.01.2025

CORAM:

THE HON'BLE MR. JUSTICE M. SUNDAR
AND
THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.P. No.37293 of 2024

P. Pichayammal

Petitioner

vs.

1. The District Collector
Salem District
Office of the District Collector
Salem
2. The District Revenue Officer
Salem District
Office of the District Revenue Officer
Salem
3. The Block Development Officer
BDO Office, Vazhappady
Salem District
4. The Tahsildar
Salem Taluk
Salem District
5. Ramani
6. Shanthi

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 4 to declare that the 12 feet common pathway belongs to Vazhapadi Panchayat, situated at Mullai Nagar, Sindhu Automobile Lane, South



side of Survey No.32/3E1, Vazhapadi Village, from Union Office Road, this pathway registered as Grama Natham in the Village record and considering the petitioner's representations dated 26.08.2024.

For petitioner Mr. R.K. Gandhi
For RR 1 to 4 Mr. M.S. Arasakumar
 Government Advocate

ORDER

(made by M. SUNDAR, J.)

This order will now dispose of the captioned 'writ petition' ('WP' for the sake of brevity).

2. This order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listing on 16.12.2024 which reads as follows:

'W.P.No.37293 of 2024

M.SUNDAR, J.,
and
K.RAJASEKAR, J.,

[Order of the Court was made by M.SUNDAR. J.,]

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 12.12.2024 which reads as follows:

'W.P.No.37293 of 2024

M.SUNDAR, J.,
and
K.RAJASEKAR, J.,

[Order of the Court was made by M.SUNDAR. J.,]

It is submitted by learned State Counsel that a suit pertaining to same property is pending.

List in the Admission Board i.e., Motion List under the cause list caption 'ADJOURNED ADMISSION' on Monday.



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List on 16.12.2024.'

2. Mr.R.K.Gandhi, learned counsel on record for writ petitioner is before us.

3. Issue notice to official respondents i.e., R1 to R4.

4. Mr.T.K.Saravanan, learned Government Advocate accepts notice for official respondents i.e., R1 to R4.

5. From the submissions, it comes to light that there appears to be three suits namely, O.S.Nos.593 and 1067 of 1998 on the file of Principal District Munsif Court, Salem and O.S.No.68 of 2010 on the file of III Additional District Munsif Court, Salem. However, there is a confusion with papers. Both sides request for time to place all papers particularly, judgments and decrees in the aforesaid three suits. Common request acceded to.

List three weeks hence under the same cause list caption i.e., 'ADJOURNED ADMISSION' in the Admission Board i.e., Motion List.

List on 06.01.2025.'

3. Adverting to the earlier proceedings dated 16.12.2024, Mr.R.K. Gandhi, learned counsel for writ petitioner and Mr.M.S.Arasakumar, learned State counsel for official respondents (RR 1 to 4) submitted in one voice that all the three suits have since been disposed of and they pertain to another six ft. pathway. In other words, it is submitted that the three suits do not pertain to the 4 ft. pathway which is subject matter of captioned WP.

4. Learned State counsel submits, on instructions, that there is no public pathway and it is purely a private dispute between the writ petitioner on one side and RR 5/6 on the other side.

5. Learned counsel for writ petitioner also submits that the writ petitioner's grievance is *qua* RR 5 and 6.



6. In this view of the matter, we have no difficulty or hesitation in writing that the writ petitioner has to work out his remedies only by way of a civil suit as against RR 5 and 6 as it is not a case of public pathway.

7. Though obvious, we write that all the rights and contentions of writ petitioner, R5 and R6 and any other person who may be made party to the civil suit will stand preserved if a civil suit is filed *qua* subject matter pathway. In other words, if a civil suit *qua* subject matter pathway is initiated, rights and contentions of the parties thereat will stand preserved untrammelled by disposal of this WP. Suffice to say that this Court is not interfering as it is not a case of public pathway.

8. *Ergo*, the sequitur is, captioned WP is dismissed, albeit with preservation of rights and contentions in the aforesaid manner. There shall be no order as to costs.

(M.S., J.) (K.R.S., J.)
06.01.2025

Index : Yes/No
NC : Yes/No
cad



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M. SUNDAR, J.

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K. RAJASEKAR, J.

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