



W.P.(MD)No.28587 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **06.01.2025**

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD)No.28587 of 2024
and W.M.P.(MD)No.24245 of 2024

Sakthivel

... Petitioner

Vs.

1. The District Collector,
Office of the District Collector,
Dindigul District.
2. The Executive Engineer (PWD),
O/o.Public Works Department,
Dindigul.
3. The Assistant Director of Town Panchayat,
O/o.Assistant Director of Town Panchayat,
Dindigul.
4. The Tahsildar,
Athoor Taluk Office,
Dindigul District.
5. The Block Development Officer,
Athoor Taluk Block Development Office,
Dindigul District.
6. The Executive Officer,
Sithayankottai Town Panchayat,
Sithayankottai,
Dindigul District.



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7. The Village Administrative Officer,
Narasingapuram Village,
Athoor,
Athoor Taluk,
Dindigul District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus preventing the respondents herein from in any manner laying any road in the petitioner's property comprised in S.No.87 situated at Narasingapuram Village, Sithayankottai Town Panchayat, Athoor Taluk, Dindigul District based on the petitioner's representation dated 14.10.2024.

For Petitioner	: Mr.S.I.Muthiah for Mr.T.Manikandan
For Respondents	: Mr.D.S.Neduncheliyan, Government Advocate (R1 to R4 & R7) Mr.M.Siddtharthan, Addl. Government Pleader (R5 & R6)

ORDER

This writ petition is filed to consider the petitioner's representation dated 14.10.2024 to prevent the respondents herein from in any manner laying any road in the petitioner's property comprised in S.No.87 situated at Narasingapuram Village, Sithayankottai Town Panchayat, Athoor Taluk, Dindigul District.



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2. When the matter is taken up for hearing, the learned Additional Government Pleader appearing for the respondents 5 and 6 submitted that there is no question of laying road in the property belonging to the petitioner, for which the learned counsel appearing for the petitioner submitted that having given an intimation that the respondents should not lay road in the petitioner's property in S.No.87, now, in the guise of laying road in the adjacent property in S.Nos.85 and 86, which is nothing but a water channel, the respondents have encroached upon the petitioner's property, for which he relied upon his sale deed bearing Document No.1260 of 2021, in which southern boundary is mentioned as 'Raja Vaikaal'.

3. A careful perusal of the photographs affixed in the typed set of papers would make it clear that Raja Vaikaal flows in the southern side of the petitioner's property and a clear newly formed road is visible in that particular area. That apart, it is brought to my notice that an application dated 07.10.2024 has been submitted by the petitioner through online on payment of necessary charges requiring the revenue authorities to survey the entire stretch of land belonging to the petitioner comprising an area of 5.72 acres in S.No.87 situated at Narasingapuram Village, Sithayankottai Town Panchayat, Athoor Taluk, Dindigul District, and to fix its boundaries. It is also mentioned in paragraph



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no.5 of the affidavit filed in support of this writ petition that the revenue officials duly surveyed his property on 09.11.2024 and fixed boundaries.

4. The learned Additional Government Pleader appearing for the respondents 5 and 6, contradicting the same, placed before me a report of the Firka Surveyor of Ayyampalayam, Aathur Taluk dated 10.11.2024 and categorically submitted that the petitioner has encroached a portion of survey Nos.85 and 86 and the same has already been informed to him, but he has not come forward to remove the encroachment, for which the learned counsel appearing for the petitioner submitted that such a report has not been served upon him and only now, from the papers circulated by the learned Additional Government Pleader, he came to know about such a report of the Firka Surveyor. He further submitted that such a survey had never been conducted at all in his property at any point of time. Had it been conducted, the petitioner would automatically have the knowledge of the same.

5. A careful perusal of the same would reveal that the petitioner himself in his affidavit stated that survey was conducted on 09.11.2024 and the boundaries were fixed and the report relied upon by the learned Additional Government Pleader is of the date 10.11.2024, ie., precisely the very next date



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on the date of which survey was conducted in the petitioner's property.

However, the Firka Surveyor of Ayyampalayam, Aathur Taluk, has concluded his report stating that the petitioner has encroached upon S.Nos.85 and 86.

6. Even incase the report of the Firka Surveyor dated 10.11.2024 relied upon by the learned Additional Government Pleader is accepted by this Court, I am of the considered view that the encroachment has to be removed only in the manner known to law and not atrociously, without giving an opportunity of hearing and without proceeding as per the provisions of the Tamil Nadu Land Encroachment Act, 1905.

7. From the photograph produced by the petitioner in page number 45 of his typed set of papers, neither the petitioner nor the learned Additional Government Pleader have made it clear before this Court as to whether the proposed road is likely to be laid in S.No.85 and 86 alone or the same would include the S.No.87. If the proposed road is likely to be encroached along with S.No.87, it is needless to state that the same would amount to encroachment of the petitioner's land. That apart, the learned Additional Government Pleader has categorically stated before this Court that there is no proposal to lay any road in S.No.87.



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8. In view of the above, the respondents, before proceeding with laying the road, are directed to measure S.Nos.85, 86 and 87 situated at Narasingapuram Village, Sithayankottai Town Panchayat, Athoor Taluk, Dindigul District, thoroughly within a period of one week from the date of receipt of a copy of this order, in the presence of the petitioner and the revenue authorities and the same may be videographed. If any portion of the proposed road stretch would come within S.No.87, the respondents are directed to acquire the same in the manner known to law, after giving appropriate compensation to the petitioner. This writ petition is accordingly disposed of. Till the aforesaid exercise is completed, the respondents shall not take any coercive steps in respect of the petitioner's property comprised in S.No.87, situated at Narasingapuram Village, Sithayankottai Town Panchayat, Athoor Taluk, Dindigul District. No costs. Consequently, connected miscellaneous petition is closed.

06.01.2025

NCC : Yes / No
Index : Yes / No
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TO:-

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Dindigul District.
2. The Executive Engineer (PWD),
O/o.Public Works Department,
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Athoor Taluk,
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L.VICTORIA GOWRI, J.

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Order made in
W.P.(MD)No.28587 of 2024

Dated:
06.01.2025