

Madras High Court

S.Nissar Fathima vs The District Collector Of ... on 3 November, 2008

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03/11/2008

CORAM

THE HONOURABLE MR.JUSTICE G.RAJASURIA

W.P.(MD)No.3951 of 2008

S.Nissar Fathima

... Petitioner

Vs.

1.The District Collector of Ramanathapuram,
Ramanathapuram District.
Collectorate Campus,
Ramanathapuram.

2.The Executive Officer,
Third Grade Municipality,
Keelakarai - 623 517.

3.Sulthania

4.Sahul Hameed Ummal

... Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to remove the construction put up in a common pathway bearing S.No.614, Keelakarai Town, Ramanathapuram Taluk and District by the respondents 3 and 4 in pursuance of the petitioner's representation dated 06.02.2007 and also in pursuance of the decree dated 04.11.2005 made in O.S.No.29 of 2004 on the file of District Munsif Court, Ramanathapuram.

!For Petitioner ... Mr.V.Sithanranjandas

^For RR1 and 2 ... Mr.R.Janakiramulu

Special Government Pleader

For RR3 and 4 ... No appearance

:ORDER

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader, appearing for the respondents 1 and 2. Despite printing the name of the respondents 3 and 4, no one represents.

2. Niggard and bereft of details, succinctly and concisely the case of the petitioner could be set out thus:

The petitioner filed a suit in O.S.No.29 of 2004 before the District Munsif Court, Ramanathapuram and obtained a decree as against the respondents 3 and 4 to the effect that the encroachment in the common pathway should be removed. The grievance of the petitioner is that despite passing of such order, the illegal encroachment is still persisting and the same should be ordered to be removed by the Executive Authorities viz., respondents 1 and 2.

3. I am of the considered opinion, in this factual matrix, that the proper course on the part of the petitioner is to file an execution petition before the lower Court, which passed the decree concerned and thereupon the Court shall issue suitable direction. If necessary, at the instance of the petitioner, an Advocate/Commissioner could be appointed, who could be ordered to be assisted by police force for removal of such obstructions and encroachments in the common pathway, which was declared to be the common pathway by the Court concerned. The trial Court shall do well to see that on such Execution Petition filed, the entire process is completed within a period of three months thereon.

4. With the above said observation and direction, this writ Petition is disposed of. No costs.

smn To

1.The District Collector of Ramanathapuram, Ramanathapuram District.

Collectorate Campus, Ramanathapuram.

2.The Executive Officer, Third Grade Municipality, Keelakarai - 623 517.