

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2026

CORAM:

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL**

**W.P(MD)No.12267 of 2026
and
WMP(MD)No.9299 of 2026**

Joseph Selestin Paul

... Petitioner

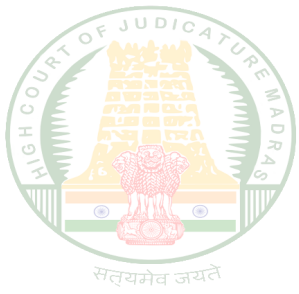
vs.

1. The District Collector,
Office of the District Collector,
Nagercoil,
Kanyakumari District.

2. The Revenue Divisional Officer (Monitoring Committee),
Office of the District collector,
Nagercoil, Kanyakumari District.

3. The Commissioner,
Nagercoil Corporation,
Nagercoil,
Kanyakumari District.

4. The Tahsildar,
Agasteeswaram Taluk,
Kanyakumari District.



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5. The Village Administrative Officer
Vadiveeswaram South Village,
Agasteeswaram Taluk,
Kanyakumari District.

6. George Justus

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 5 to remove the encroachment made by the 6th respondent in Survey No.L3/77, situated at Vadiveeswaram South Village, Agasteeswaram Taluk, Nagercoil, Kanyakumari District, in the light of the proceedings of the 3rd respondent in Na.Ka.No.F1/17473/2025 dated 01.12.2025 within a time frame to be fixed by this Court.

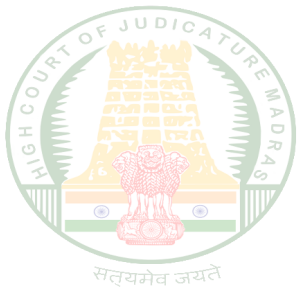
For Petitioner : Mr.G.Anto Prince

For Respondents : Mr.M.P.Senthil (R1, R2, R4 & R5)
Counsel for State
: Mr.P.Athimoola Pandian (R3)
: Mr.S.C.Herold Singh (R6)

ORDER

(Order of the Court was made by C.V.KARTHIKEYAN, J.)

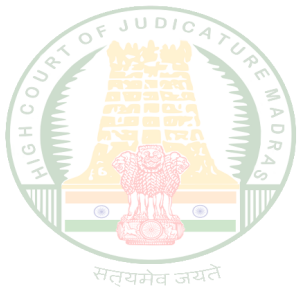
The writ petition has been filed in the nature of a Mandamus seeking direction against the respondents 1 to 5 / District Collector, Nagercoil,



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Kanyakumari District, Revenue Divisional Officer (Monitoring Committee), Nagercoil, Kanyakumari District, Commissioner, Nagercoil Corporation, the Tahsildar, Agasteeswaram Taluk, Kanyakumari District and the Village Administrative Office, Vadiveeswaram South Village, Agasteeswaram Taluk, Kanyakumari District, to remove the encroachment made by the 6th respondent / George Justus, resident of Mela Maravankudiyuruppu, Agasteeswaram Taluk, Kanyakumari District, in the public pathway comprised in Survey No.L3/77, situated at Vadiveeswaram South Village, Agasteeswaram Taluk, Nagercoil, Kanyakumari District, and to restore access to the property of the petitioner.

2. In the affidavit filed in support of the writ petition, the petitioner has claimed title to the property in Town Survey No.L3/86 (New Survey No.LI/10-3), situated at Vadiveeswaram South Village, Agasteeswaram Taluk, Nagercoil, Kanyakumari District, measuring an extent of 3½ cents. He had further stated that on the northern side of his property, a public pathway exists which had been classified as Government poromboke land in Survey No.L3/77. He however claimed that it had been continuously used as ingress and egress by the petitioner and also by the general public. It had been contended that the 6th respondent had

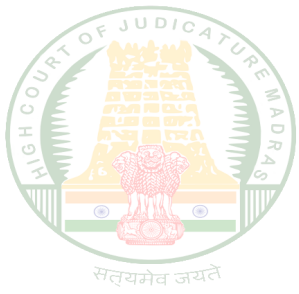


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encroached upon the said pathway and put up obstruction by way of a gate thereby completely blocking the access. It had been stated that the petitioner had lodged a complaint before the Jurisdictional Police Station and the FIR in Crime No.376 of 2025 dated 24.09.2025 had been registered against the 6th respondent by the Kottar Police Station for the offences punishable under Sections 329(4), 296(b), 324(2), 118(1) and 351(3) of the Bharatiya Nyaya Sanhita (BNS), 2023. Complaining that though several representations had been submitted, no action had been taken, the present writ petition has been filed.

3. Notice had been directed to the respondents and counsels have entered appearance.

4. Learned counsel for the 3rd respondent pointed out that the particular pathway is categorised as Government poromboke land and used as a pathway. He further pointed out that the 6th respondent had put up a gate preventing free ingress and egress not only to the petitioner but to the general public to move across the pathway. In this connection, he stated that taking advantage of Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998, the 3rd respondent /



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Commissioner, Nagercoil Corporation had issued notice to the 6th respondent calling upon him to explain the circumstances under which he had put up a gate and directing him to remove the same. Section 128 of the Tamil Nadu Urban Local Bodies Act 1998, provides the power to the Commissioner to remove the encroachment from a public place. The said provision is as follows:

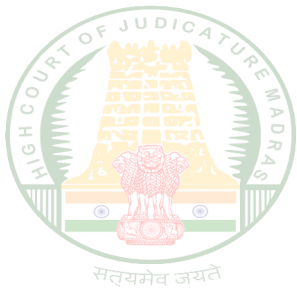
"128. Power to remove encroachment from public place.—(1)

The Commissioner may,—

- (a) remove without any notice any movable temporary structure, enclosure, stall, booth, any article whatsoever hawked, exposed or displayed for sale or any other thing whatsoever by way of encroaching street or public place or the [land belonging to or vested with the municipality] with the municipal limit ;
- (b) remove any immovable structure whether permanent or of temporary nature encroaching the street or public place or the [land belonging to or vested with the municipality] within the municipal limit, after issuing a show cause notice for such removal, returnable within a period of seven days from the date of receipt thereof :

Provided that the Commissioner shall consider any representation received within the time limit, before passing final orders.

- (2) Whoever makes any encroachment in any land or space (not being private property) in any public street or any [land belonging to or vested with the municipality] within the municipal limit, shall, on conviction, be punished with imprisonment which shall not be less than



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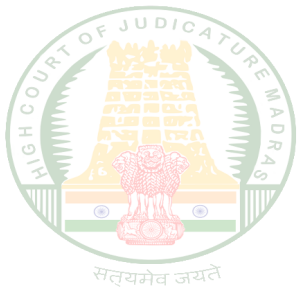
one year but which may extend to three years and with fine which may extend to fifty thousand rupees :

Provided that the Court may, for any adequate or special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than one year."

5. It had been contended that the 6th respondent should therefore reply to the notice and then the 3rd respondent would take action in the manner known to law and in accordance with the provisions of the said Act.

6. Learned counsel for the 6th respondent however contended that the pathway is a private pathway, but however the documents relating to title had not been filed before this Court. Learned counsel contended that the 6th respondent had filed O.S.No.75 of 2026 before the Principal Sub Court, Kanyakumari and that the said suit is pending. We would only draw notice to Section 149 of the Tamil Nadu Urban Local Bodies Act 1998, which is as follows:

"149. Bar of jurisdiction of Courts.—No Civil Court shall have jurisdiction to decide or deal with any question which is by or under this Part required to be decided or dealt with by the Government or the Commissioner."



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[C.V.K., J.] & [R.S.V., J.]
01.07.2026

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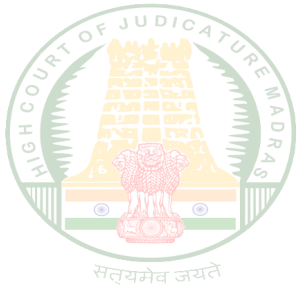
To

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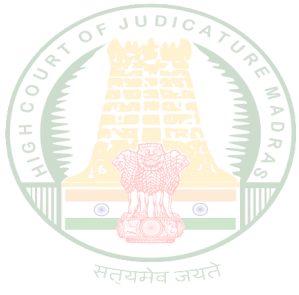
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R.SAKTHIVEL, J.

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