

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.08.2014

Coram:

The Honourable Mr. SANDAY KISHAN KAUIA CHIEF JUSTICE

and  
The Honourable Mr. Justice M. SATHYANARAYANAN

Writ Petition No. 26722 of 2013  
and M.P.No.1 of 2013

U. A. Marrappa Gounder

... Petitioner

VERSUS

1. The District Collector  
Erode District  
Erode.

2. The Revenue Divisional Officer,  
Gopichettipalayem  
Erode District.

3. The Revenue Thasildar  
Gopichettipalayam, Erode District.

4. The President  
Modachur Village Panchayat  
Gopichettipalayam Taluk  
Erode District.

5. Mani @ Gunduman

6. K. Arukutti @ Arumugam

7. A. Palanisamy

8. K. Vadivel

9. C. Selvaraj

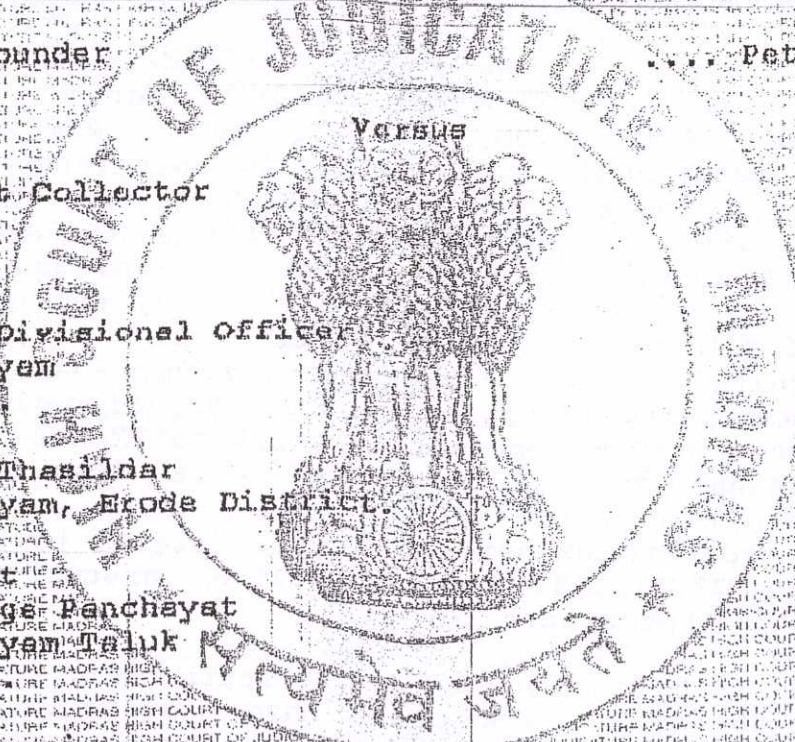
10. V. Kumarasamy Gounder

11. P. Subramanyam

12. Balasubramaniyam

Respondents

Petition filed under Article 226 of the Constitution of India  
praying for the issue of writ of Mandamus directing the  
respondents 1 to 3 to remove the encroachment caused by the  
respondents 5 to 12 over the public cart track existing in Survey  
Nos 298/3, 299/3, 267/5, 266/5, 272/1 and 281/1 situated at Modachur  
Village, Gopichettipalayam Taluk, Erode District within a time frame





FOR Respondents :::: Mr. P.H. Arvind Pandian AAG  
assisted by Mr. S.T.S. Moorthy G  
for RR 1 to 4.  
Mr. A.V. Arin for RR 5 to 9

No appearance for RR 10, 11 and 12.

**O R D E R**

(The Order of the Court was made by The Hon'ble The Chief Justice)

The petitioner having purchased 3.38 acres of land in the year 1980, classified as New S.No.299/2, Old S.No.315 situated on the Modachur Village, Gopichettipalayam Taluk, Erode District, is aggrieved by his easement right in the 15 feet width cart track stated to be available on the southern side of his land. It is the say of the petitioner that respondent Nos. 5 to 12 are encroaching upon the cart track and have closed the access by using other land owners who had easement rights in the cart track.

2. The stand of the second respondent reflected in their affidavit is that the cart track is lying through patta lands and sub-divided as 298/3, 299/3, 267/5, 266/5, 272/1 and 281/1 and registered as Boosthuthi Cart Track in Village records and also they are Patta lands. However, there is stated to be no cart track in the above fields. The recent pattadars are stated to have demolished the cart track and merged with their patta land for use of cultivation. With result, the pattadars of S.F.No.299, 298 and other surrounding areas are not able to use the cart track causing hardship. This in turn has resulted in civil proceeding before the District Munsif Court, Gobichettipalayam, regarding the right of pathway of the above said land, where private respondent Nos.5 to 12 before us are stated to be restrained from locking the cart track. The revenue authorities are stated to have taken necessary action in pursuance thereto. In order to execute the decree stated to have been passed on 27.09.1979, 12.11.1981 and 09.04.1996, execution petitions are stated to be the appropriate remedy.

3. The learned counsel for the petitioner, on the other hand, contend that the cart track could have only existed on Government lands and thus there is a duty cast on the authority under the Tamilnadu Land Encroachment Act, 1905. The moot point, however remains, as to whether the cart track lands are government lands or not? Unfortunately, for the petitioner, the stand of the Government is that the same do not form part of the government land, but private patta land which at some stage has been used for cart track and thus the only remedy for the petitioner is through enforcement of civil proceedings, if he claims easementary rights.



4. In our view, this issue cannot be determined in this Public Interest Litigation and we have to necessarily relegate the petitioner to the civil remedy, if he so chooses.

5. Before parting with the matter, we are constrained to observe that large part of the PIL arising before this Court are from allegations of encroachments on Government lands, water ways, public streets, unauthorised constructions, etc... These are really matters for civil authorities and revenue authorities to take care of. The State Government must set forth a mechanism where aggrieved persons can complain and remedial action can be taken. Promptly, they are called upon to do so. We have thus requested the learned Government Pleader to enter appearance in this matter and to obtain instructions from the State Government, in what manner such an authority be set up, due publicity given to the authorities where aggrieved persons would be first required to make their representations and a remedial action and reasoned response be communicated within a period of 30 days from such complaint being made. Once such a mechanism is set up, there would be no occasion to entertain a PIL on the first instance in such matters as an administrative machinery would be available for remedying the position.

6. The learned Government Pleader requests for some time to file an affidavit to set forth such a mechanism in place. The affidavits be done within a period of two weeks.

7. The writ petition stands disposed of with the aforesaid directions. Consequently, connected miscellaneous petition is closed.

List for compliance on 27.08.2014.

A Copy of the order be marked to the Chief Secretary, Government of Tamil Nadu

sd/ Assistant Registrar (CS-111)  
Dated: 19.08.2014

*[Signature]*  
Sub Assistant Registrar

The District Collector,  
Pondicherry District



- 2. The Revenue Divisional Officer,  
Gobichettipalayam, Erode.
- 3. The Revenue Tahsildar,  
Gobichettipalayam, Erode.
- 4. The President,  
Modachur Village Panchayat  
Gobichettipalayam Taluk  
Erode District.

5. The Sub Assistant Registrar (A.S.)  
Judicial, High Court, Madras.

Copy to:

- 1. The Chief Secretary to Government  
Fort St. George, Chennai 600009.
- 2. The Secretary to Government  
Municipal Administration Department  
Fort St. George, Chennai 600009.
- 3. The Secretary to Government  
Home Department  
Fort St. George, Chennai 600009.
- 4. The Director General of Police  
Dr. Radhakrishnan Salsai,  
Mylapore,  
Chennai 600004.
- 5. The Commissioner of Police  
Greater Chennai City,  
Egmore, Chennai 600008.
- 6. The Commissioner  
Corporation of Chennai  
Rippon Buildings, Chennai 600003.
- 7. The Commissioner  
Hindu Religious and Charitable Endowment Board,  
Nungambakkam, Chennai 600034.

