



W.P.(MD) No.9905 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.04.2023

CORAM:

**THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE R.SUBRAMANIAN**

W.P.(MD) No.9905 of 2023

L.Jeyachandran

... Petitioner

-vs-

1.The District Collector
Thoothukudi District
Thoothukudi

2.The District Revenue Officer
Thoothukudi District

3.The Revenue Divisional Officer
Ottapidaram
Thoothukudi District

4.The Tashildhar
Ottapidaram Taluk
Thoothukudi District

5.The Block Development Officer
Ottapidaram
Thoothukudi District

6.Chandrasekaran

... Respondents



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WEB COURT

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 5 to remove the encroachments made by the sixth respondent in the common pathway situated in Survey No.50/3B, Parivillikottai, Ottapidaram Taluk, Thoothukudi District, in accordance with the eviction notice issued by the fourth respondent in Na.Ka.No.A3/09/2022, dated 28.10.2022, within a time stipulated by this Court.

For Petitioner : Mr.K.Dinesh

For Respondents : Mr.S.P.Maharajan
Special Government Pleader for R1 to R5

ORDER

[Order of the Court was made by The Hon'ble ACTING CHIEF JUSTICE]

Mr.S.P.Maharajan, learned Special Government Pleader, takes notice for the respondents 1 to 5.

2. Considering the nature of the relief, notice to the private respondent is dispensed with.



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3. With the consent of both sides, this writ petition is taken up for final hearing at the admission stage itself.

4. L.Jeyachandran, son of Lakshmanan, has filed this writ petition, under Article 226 of the Constitution of India, seeking a direction to the respondents 1 to 5 to remove the encroachment made by the sixth respondent in the common pathway in Survey No.50/3B of Parivillikottai Village, Ottapidaram Taluk, Thoothukudi District.

5. In support of the prayer sought for, the petitioner has also produced a notice, dated 28.10.2023, appears to have been issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (for brevity, “the Act”), by the Tahsildar, Ottapidaram Taluk, which shows that the land in Survey No.50/3B of Parivillikottai Village, to an extent of Hectare 0.01.0 Ares, is classified as “நிலவியல் பாதை” and the nature of encroachment is Garden.

6. Learned counsel appearing for the petitioner would submit that though the said notice was issued to the sixth respondent as early as on 28.10.2022, no action was taken till date by the Tahsildar to remove the encroachment. Therefore, the petitioner has come up with this writ petition.



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7. Learned Special Government Pleader appearing for the respondents 1 to 5 submitted that there is no notice issued under Section 7 of the Act, however, since the Thasildar has issued the notice dated 28.10.2022, he has to proceed further for removal of encroachment.

8. We also find that the sixth respondent *prima facie* appears to have encroached the land in question, which is classified as “நிலவியல் பாதை” as Garden. Therefore, the fourth respondent is hereby directed to remove the encroachment made by the sixth respondent, within a period of four weeks from the date of receipt of a copy of this order, after giving due notice to all the parties concerned and by following due process of law.

9. The writ petition is disposed of with the above direction. No costs.

[T.R., A.C.J.] [R.S.M., J.]

25.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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