



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.02.2017

CORAM:

**THE HONOURABLE MR.JUSTICE A.SELVAM**

and

**THE HONOURABLE MR.JUSTICE P.KALAIYARASAN**

WEB COPY

W.P (MD) No.1828 of 2017

Babu

.. Petitioner

Vs.

1.The District Collector,  
Theni District.

2.The Tahsildar,  
Uthamapalayam Taluk, Theni District.

3.The Executive officer,  
Pannaipuram Village, Uthamapalayam Taluk,  
Theni District.

4.N.Rajendran

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 1 to 3 to remove the encroachments in Public pathway situated at S.No.986/15, Valluvar Street, Pannaipuram Village, Uthamapalayam Taluk, Theni District.

For Petitioner

: Mr.V.A.Dhana Aravindha Balaji

For Respondents 1 and 2

: Mr.M.Govindan

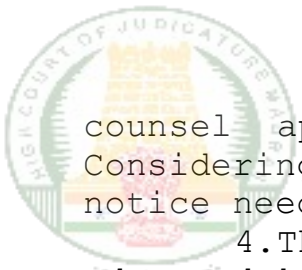
Special Government Pleader.

### ORDER

[Order of the Court was made by **A.SELVAM, J.**]

This writ petition has been filed under Article 226 of the Constitution of India praying to direct the respondents 1 to 3 to remove encroachments which are in existence in Survey No.986/15, Valluvar Street, Pannaipuram Village, Uthamapalayam Taluk, Theni District, by way of issuing a writ of mandamus.

2.It is averred in the petition that the petitioner is a resident of Pillaiyar Kovil Street, Pannaipuram Village, Uthamapalayam Taluk, Theni District. Further it is averred in the petition that in Pannaipuram Village Survey No.986/15 has been classified as street, wherein the fourth respondent has made certain encroachments and for the purpose of removing the same, the present writ petition has been filed.



counsel appearing for the third respondent is not present. Considering the nature of the relief sought in the writ petition, notice need not be sent to the fourth respondent.

4.The learned counsel appearing for the petitioner has advanced his argument on the basis of averments made in the writ petition.

5.The learned Additional Government Pleader appearing for the respondents 1 and 2 has contended that already eviction notice has been given to the fourth respondent and he challenged the same by way of filing W.P(MD)No.19091 of 2014 and the same has been dismissed and against the order passed in W.P(MD)No.19091 of 2014, W.A(MD)No.1949 of 2014 has been filed, wherein the Division Bench of this Court has directed the appellant/petitioner to give representation and also to move civil forum, till then status quo to be maintained and under the said circumstances the fourth respondent as plaintiff has instituted Original Suit No.26 of 2015 on the file of the District Munsif Court, Bodinaickanur.

6.On the basis of divergent contentions raised on either side, it is easily discernible to the effect that already eviction notice has been given to the fourth respondent. But he challenged the same by way of approaching this Court and the learned Single Judge has rejected his claim. However the Division Bench of this Court has given a finding mentioned supra.

7.Further it is reliably learnt that even though Original Suit No.26 of 2015 has been filed on the file of the District Munsif Court, Bodinaickanur, no interim order has been passed so as to restrain the concerned authorities from removing encroachment.

8.The present writ petition has been filed only for the purpose of removing encroachments which are in existence in Survey No.986/15. In fact this Court has perused the concerned revenue record and ultimately found that Survey No.986/15 has been classified as street.

9.Considering the classification of Survey No.986/15 and also considering the fact that no embargo is in existence in taking eviction proceedings, this Court is inclined to pass the following order.

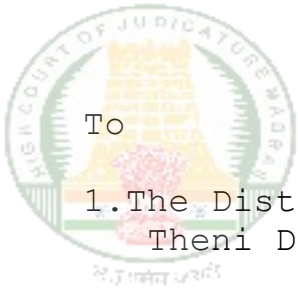
10.In fine, this writ petition is allowed without costs and the respondents 1 to 3 are strictly directed to remove encroachments which are in existence in Survey No.986/15, Valluvar Street, Pannaipuram Village, Uthamapalayam Taluk, Theni District under due process of law within a period of two months.

Sd/-

Assistant Registrar (WRITS)

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Sub Assistant Registrar



To

1.The District Collector,  
Theni District.

2.The Tahsildar,  
Uthamapalayam Taluk,  
Theni District.

3.The Executive officer,  
Pannaipuram village,  
Uthamapalayam Taluk,  
Theni District.

+1 cc to MR.Dhana Law Associates, ADVOCATE, SR NO:5943

+1 CC to M/S.SPL.GOV.T.PLEADER, SR NO:6400

smn

AAM PN SAR3 06.02.2017 3P 6C

ORDER MADE IN  
W.P (MD) No.1828 of 2017  
03.02.2017