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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBBIAH**
AND

THE HONOURABLE MRS.JUSTICE **R.THARANI**

W.P.[MD].No.8213 of 2018

and

W.M.P (MD) No.7769 of 2018

Mr.V.Duraiarasan

: Petitioner

Vs.

1.The Secretary to Government,
Revenue and Disaster and Mitigation Department,
Fort St. George, Chennai.

2.The Commissioner,
Revenue and Disaster and Mitigation Department,
Ezhialagam, 3rd Floor,
Chepauk, Chennai-600 005.

3.The District Collector,
Madurai,
Madurai District.

4.The Tahsildar,
Madurai North Taluk,
Madurai District.

5.Mrs.R.Muthuammal

: Respondents

Prayer in WP(MD). 8213/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the Respondents 1 to 4 to remove the encroachments made by the 5th Respondent at Bharathiyar 6th Street Annai Meenakshi Nagar, Alathoor, Madurai in common pathway on Eastern side to Western side and connecting Pandian Nagar to Annai Meenakshi Nagar as well as public water channel, measured about 9 feet berth and 87 feet length, by putting up septic tank, staircase of the 5th Respondents house and compound wall, within a stipulated time frame.



For Petitioner : Mr.G.Mutharasu
For R1 to R4 : Mr.M.Jeyakumar
Addl. Govt. Pleader
For R5 : Mr.V.Om.Prakash

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O R D E R

[Order of the Court was made by R.SUBBIAH, J.]

This writ petition has been filed seeking for issuance of a Writ of Mandamus, directing the Respondents 1 to 4 to remove the encroachments made by the fifth respondent at Bharathiyar 6th Street, Annai Meenakshi Nagar, Alathoor, Madurai in the common pathway from Eastern side to Western side and connecting Pandian Nagar to Annai Meenakshi Nagar, as well as public water channel, measuring about 9 feet breadth and 87 feet length by putting up septic tank, staircase of the 5th Respondent's house and compound wall, within a stipulated time frame.

2. The main grievance of the petitioner is that the fifth respondent has encroached a common pathway from Eastern side to Western side connecting Pandian Nagar to Annai Meenakshi Nagar as well as public water channel measuring about 9 feet breadth and 87 feet length by putting up septic tank, staircase of the fifth respondent's house and compound wall. But this was denied by the fifth respondent by filing the detailed counter. In fact, in the said counter it is stated that it is the petitioner who had encroached the pathway in Plot No.7 towards east to west by measuring length 37'1.10 sq.feet and breadth 0' to 3'.2" sq.feet and the same has been totally measured to about 58.59 sq.feet. That apart, the petitioner has also encroached the pathway in Plot No.7A towards East to west 41'.6" sq.feet and south to north 0' to 1'.0" sq.feet and the same has been totally measured to about 20.75 sq.feet.

3.This Court cannot conduct a roving enquiry with regard to the allegations and counter allegations made by the petitioner and the respondents.

4.The present writ petition has been filed only for mandamus directing the respondents 1 to 4 to remove the encroachments made by the fifth respondent. In this regard, already a representation was given by the petitioner, dated 11.11.2017 to the respondents 1 to 4. In view of the same, this Court directs the petitioner to give fresh representation to the fourth respondent within a period of one week from the date of receipt of a copy of this order. On receipt of the same, the fourth respondent is directed to enquire into the matter by affording an opportunity to the petitioner as well as the fifth respondent and pass appropriate orders on merits by inspecting the property and conducting survey. In case, if the respondents find that there is an encroachment, they are directed to remove the same in accordance with law. The entire exercise shall be completed within a period of eight weeks from the date of receipt of a copy of



this order.

5. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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/True Copy/

Sd/-

Assistant Registrar(CS-I)

Sub Assistant Registrar(CS-I)

TO

1. The Secretary to Government,
Revenue and Disaster and Mitigation Department,
Fort St. George, Chennai.
 2. The Commissioner,
Revenue and Disaster and Mitigation Department,
Ezhialagam, 3rd Floor,
Chepauk, Chennai-600 005.
 3. The District Collector,
Madurai,
Madurai District.
 4. The Tahsildar,
Madurai North Taluk,
Madurai District.
- 1 CC TO Mr.G.MUTHARASU , ADVOCATE IN SR No.96005.
 - + 1 CC TO Mr.V.OM.PRAKASH , ADVOCATE IN SR No. 96008.
 - +1 cc to Special Government Pleader, SR.No.96690.

AM

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ORDER MADE IN
W.P (MD) No.8213 of 2018
20.11.2018