



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2018

CORAM:

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

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

W.P. [MD] .No.17889 of 2018

and

W.M.P (MD) No.15760 of 2018

S.Malliga

: Petitioner

Vs.

1.The Commissioner,
Madurai Corporation Office,
Madurai District,
Madurai.

2.Ilangovan

3.Subbulakshmi

4.Sekar

(R2 to R4 are impleaded vide
Court order, dated 03.08.2018)

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the respondent in his proceedings **ந.க.எண்.ம2எ7/9322/18**, dated 24.07.2018 and quash the same as illegal.

For Petitioner

: Mr.H.Mohammed Imran

For Ajmal Associates

For R1

: Mr.R.Murali

For R2

: Mr.B.Ramanathan

For R3

: Mr.Arun Arockiasamy

For R4

: Mr.D.Bala Murugapandi

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 Certiorari, calling for the records relating to the impugned order passed by the first respondent in his proceedings **ந.க.எண்.ம2எ7.9322/18**, dated 24.07.2018 and quash the same as illegal.

2.It is the case of the petitioner that the land in Survey No.8/11 situated in Managiri North Street, Madurai belonging to one Mrs.Deviammal from whom one Mr.Sokkalalpuliambalam purchased the same through a registered sale deed, dated 20.07.1955. Subsequently,



the petitioner's mother purchased the suit property on 10.07.1964. Thereafter, the mother of the petitioner executed a release deed in favour of the petitioner. The petitioner had constructed a house in the said land. While so, the present impugned proceedings, dated 24.07.2018 has been passed stating that as if the petitioner had encroached the Survey in R.S.No.77/P, Managiri North Street. The said impugned order does not contain any particulars. Only it is in the printed format. Therefore, the petitioner has filed the present writ petition to quash the impugned order.

3.Per contra, the learned counsel appearing for the first respondent submitted that on an earlier occasion, when this matter came up before this Court, a direction was given to the first respondent to conduct survey. Based on the said direction, survey was conducted and found that the petitioner has encroached 3 feet in breadth and 9 feet in length on the street. Thereafter only, the present notice has been issued.

4.Further, the learned counsel for the petitioner submitted that the impugned order does not reveal what is the extent of encroachment. Only, if the notice is issued by giving all the particulars such as extent of alleged encroachment by the petitioner, he would be in a position to reply the same.

5.In view of the same, the writ petition is allowed setting aside the impugned order, dated 24.07.2018 with a direction to the first respondent to issue fresh notice to the petitioner containing all the particulars with regard to the nature of encroachment made by the petitioner, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such notice, the petitioner shall give reply to the same and based on such reply, the first respondent is at liberty to proceed further in accordance with law. The entire exercise shall be completed within a period of 8 weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(ADMN I)

/True Copy/

Sub Assistant Registrar(CS III)

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To

The Commissioner, Madurai Corporation Office,
Madurai District, Madurai.

1CC TO M/S. AJMAL ASSOCIATES, ADVOCATE SR 95929

1CC TO MR. R. MURALI, ADVOCATE SR 95707

1CC TO MR. V. MUTHUKAMATCHI, ADVOCATE SR 95851

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ORDER MADE IN W.P(MD)No.17889 of 2018

16.11.2018