



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.08.2020**

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD)No.8578 of 2020
and
W.M.P (MD)No.7945 of 2020

S.K.Jeganathan

... Petitioner

-Vs-

- 1.The District Collector,
Madurai District.
- 2.The Tahsildar,
Melur Taluk,
Madurai District.
- 3.The Block Development Officer,
Melur Panchayat Union,
Melur Taluk,
Madurai District.
- 4.The Village Administrative Officer,
Therkutheru Village Panchayat,
Melur Taluk,
Madurai District.
- 5.The President,
Therkutheru Panchayat,
Melur Taluk,
Madurai District.

... Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to remove the encroachment made on the public road from Therkutheru village to Tharmasanapatti village in Melur Taluk, Madurai District and renovate the same in the interest of justice.

For Petitioner : Mrs.J.Balameenakshi



For Respondents : Mr.V.R.Shanmuganathan,
Special Government Pleader

WEB COPY

ORDER

[Order of the Court was made by **M. SATHYANARAYANAN, J.,**]

The petitioner is a resident of Therkutheru Village, Melur Taluk, Madurai District and according to him, there are encroachments in Therkutheru Village in Natham Survey Nos.828/1 and 829 - on the way to Dharmasaanapatti village.

2. The petitioner would further aver that one of the encroachers namely Vellaiyammal had filed W.P(MD)No.8897 of 2012 against the Collector of Dindigul District, the Tahsildar of Melur Taluk and the President of Therkutheru Panchayat as well as against the petitioner herein, praying for issuance of a Writ of Mandamus, forbearing the respondents from evicting the petitioner therein from her dwelling house comprising 160 sq. ft., bearing Door No.3/165, Jawahar Street, Therkutheru Panchayat, Melur Taluk, Madurai District, without following the due process of law.

3. The learned single Judge had taken note of the fact that there was encroachment on the drainage and there was a partial encroachment on the road side also and directed the petitioner therein to remove the encroachments forthwith, under the supervision of the respondents therein.

4. The petitioner thereafter submitted a representation dated 27.05.2013 to the Revenue Divisional Officer, Madurai, praying for removal of encroachment, the said official, who in turn, directed the second respondent herein to do the needful. The third respondent herein also issued similar direction to the fourth respondent vide memo dated 18.06.2014 in ந.க.எண்.82/14/தி3.

5. The learned counsel appearing for the petitioner would submit that in terms of the said direction, the fifth respondent herein had sent a notice dated 28.06.2014 in ந.க.எண்.1/2014-15, for removal of encroachment of 39 persons and some of the encroachers made a challenge to the said proceedings in W.P(MD)Nos.10997 to 11000 of 2014. A Division Bench of this Court vide common order dated 27.07.2017, had quashed the impugned order on the ground that those proceedings not preceded by show-cause notice.

6. The learned counsel appearing for the petitioner would submit that despite liberty has been granted to the fifth respondent herein to proceed afresh vide the above cited common order dated 27.07.2017 passed in W.P(MD)Nos.10997 to 11000 of 2014, nothing is



moving forward and in this regard, a detailed representations dated 06.05.2019 and 03.06.2019, have also been submitted to the official respondents. Despite receipt and acknowledgement, no action whatsoever has been taken and therefore, the encroachers continue to enjoy the fruits of the illegalities and hence, prays for appropriate orders.

7. Mr.V.R.Shanmuganathan, learned Special Government Pleader accepts notice on behalf of the respondents 1 to 5 and on instructions would submit that immediate, necessary and appropriate action would be taken in accordance with law under the relevant statutory provisions and status report with supporting documents and photographs would also be filed before this Court.

8. This Court has carefully considered the rival submissions made on both sides and perused the materials placed before it.

9. This Court by taking into consideration the above facts and circumstances as well as the rival submissions, directs the respondents 2, 3 and 5, to follow the due process of law, also by adhering to the principles of natural justice and to take immediate, necessary and appropriate action to remove the encroachments. The respondents 2, 3 and 5, shall carry out the entire exercise within ten weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner as well as to the encroachers.

10. The Writ Petition is disposed of accordingly. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Collector,
Madurai District.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Tahsildar,
Melur Taluk,
Madurai District.

3.The Block Development Officer,
Melur Panchayat Union,
Melur Taluk,
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5.The President,
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Melur Taluk,
Madurai District.

Order made in
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pm
SDS (13.08.2020) 4P-6C