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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA  
and  
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.A.No.1167 of 2017 and CMP.No.16214 of 2017

1. Pachaiaammal

2. Chellappa ... Appellants/ Respondents 3&4  
-vs-

1.K.Santhi

2. The Commissioner,  
Madurantakam Municipality,  
Madurantakam.

3. The District Collector,  
Kanchipuram District,  
Kanchipuram.

... Respondents/ Petitioners/ Respondents 1 & 2

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the Order of the learned Single Judge made in W.P.No.37077 of 2003 dated 10.08.2017.

Prayer in W.P.No.37077 of 2003:

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus directing the first respondent to remove the encroachment in santhai street, also known as Mandapam Street, in front of the petitioner's house put up by Subbarayan alias pillayar whose Legal representatives are pachaiaammal and chellappa immediately.

For Appellants : Mr.D.Murthy

For 2<sup>nd</sup> respondent : Mr.V.Manohar,  
Government Advocate

For 3<sup>rd</sup> Respondent : Mr.T.Arunkumar,  
Government Advocate

For R1 : No Appearance



## JUDGMENT

(Judgment of the Court was pronounced by T.RAJA.J)

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This Writ Appeal has been filed against the order made in W.P.No.37077 of 2003 dated 10.08.2017 in and by which the learned Single Judge having fully satisfied with the writ petitioner that the appellants herein have encroached the public street, directed the Madurantakam Municipality to survey the land-in-question and thereafter to demolish the encroached portion within a period of 45 days from the date of receipt of a copy of that order.

2. Learned Counsel appearing for the appellants submitted that the writ petitioner/1<sup>st</sup> respondent herein, out of jealousy has filed the writ petition for evicting the appellants on the ground that encroachment has been made by them in a public street. When any alleged encroachment is made, the same also cannot be evicted without following the due process of law. This aspect has been completely overlooked by the learned Single Judge. Therefore, the order of the learned Single Judge has to be set aside, he pleaded.

3. Heard the respective learned Government Advocate appearing for the 2<sup>nd</sup> respondent Madurantakam Municipality as well as the 3<sup>rd</sup> respondent.

4. At the outset, we are unable to find any merit on the submissions of the learned Counsel for the appellants. The reason being that when the appellants are admittedly encroachers of a public street which we are able to appreciate from the photographs filed as a part of the documents, the direction given by the learned Single Judge, directing the 2<sup>nd</sup> respondent herein to survey the land-in-question and thereafter, remove the encroachment cannot be found fault with. Therefore, we find no infirmity or illegality to interfere with the said findings and conclusions reached by the learned Single Judge.

5. At this stage, learned Counsel for the appellants submitted that like the appellants, there are several other encroachments made by other people. Therefore, uniformly, a direction may be given to remove all the encroachments in that locality.

6. Accepting the said contention, the 2<sup>nd</sup> respondent herein, namely, the Commissioner, Madurantakam Municipality, Madurantakam, is hereby directed to survey the land-in-question and also the other lands in Santhai Street also known as Mandapam Street and during the course of survey, if they come across any encroachment, the same has to be identified and removed, after giving due notice to the encroachers.



7. With the above observation and direction, this Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

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Sd/-  
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner,  
Madurantakam Municipality,  
Madurantakam.

2. The District Collector,  
Kanchipuram District,  
Kanchipuram.

+1 cc to Mr.D.Murthy, Advocate Sr.NO. 53653

W.A.No.1167/2017

SR co

A.SK(22.11.2021)