



WEB COPY

W.P.(MD) Nos.1237 and 1939 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.06.2021

CORAM :

**THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE**

**AND**

**The HON'BLE MR.JUSTICE T.S.SIVAGNANAM**

W.P. (MD) Nos.1237 of 2021 and 1939 of 2020

and W.M.P (MD) No.1052 of 2021

P.Ganesan .. Petitioner in W.P (MD) No.1237 of 2021  
D.Pandi .. Petitioner in W.P (MD) No.1939 of 2020

Vs

1.The Commissioner,  
Madurai City Municipal Corporation,  
Madurai.

2.The Assistant Commissioner,  
Madurai City Municipal Corporation,  
Zone No.4 (South), Madurai.

3.The Assistant Engineer,  
Madurai City Municipal Corporation,  
Zone No.4 (South), Madurai.

4.The Junior Engineer,  
Madurai City Municipal Corporation,  
Zone No.4 (South),  
Madurai.

.. Respondents in W.P. (MD) No.1237 of 2021

1.The District Collector,  
Madurai District, Madurai.

2.The Commissioner,  
Madurai Corporation,  
Arignar Anna Maligai, Madurai.

3.The Tahsildar,  
Thiruparankundram Taluk,  
Madurai West, Madurai District.

4.The District Surveyor,  
Madurai Corporation,  
Arignar Anna Maligai, Madurai.

5.The Village Administrative Officer,  
Madakulam Village, Madakulam Main Road,  
Palanganatham, Madurai.

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



6.Ganesan

... Respondents in W.P(MD)No.1939 of 2020

PRAYER in W.P(MD)No.1237 of 2021: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari to call for the records relating to the impugned notice dated 20.11.2020 in A-9/02595/20 issued by the first respondent and quash the same.

PRAYER in W.P(MD)No.1939 of 2020: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondents 1 to 5 to remove the encroachments made by the 6<sup>th</sup> respondent in Old Survey Nos.202A/1B, 2B, 3B, 4B (T.S.No.231) situated at the above said Maruthupandiyar Nagar, Palanganatham, Thiruparankundram Taluk, Madurai West, Madurai District by considering the petitioner's representation dated 02.01.2020.

For Petitioner : Mr.J.Barathan  
(In W.P (MD)No.1237/2021)

For Respondents : Mr.T.S.Mohammed Mohideen  
(In W.P (MD)No.1237/2021) for Corporation

For Petitioner : Mr.J.Ashok  
(In W.P (MD)No.1939/2021)

For 2<sup>nd</sup> Respondent : Mr.T.S.Mohammed Mohideen  
(In W.P (MD)No.1939/2021) for Corporation

For Respondents 1,3 to 5: Mr.A.K.Manickam,  
Standing Counsel for Govt.

For 6<sup>th</sup> Respondent : Mr.J.Barathan

COMMON ORDER

**[Order of the Court was made by T.S.SIVAGNANAM, J.]**

The writ petition in WP(MD) No.1939 of 2020 has been filed as a public interest litigation alleging that the sixth respondent has encroached into a land belonging to the Corporation of Madurai.

2.The Corporation of Madurai, based on the representation submitted by the petitioner has issued notice, dated 20.11.2020 to the sixth respondent alleging that he is an encroacher and calling upon him to remove the encroachment, failing which action will be taken. This notice is impugned in W.P.(MD) No.1237 of 2021.



3. We have elaborately heard the learned counsel for the parties.

4. Upon going through the facts, we find that there are several disputed questions as to who is the rightful owner of the property, whether the entire extent land has been registered in the name of the Corporation of Madurai or a portion of the land belongs to the Corporation. This issue cannot be decided in a summary proceedings based on affidavits and necessarily, enquiry needs to be conducted, which is required to be done by the Revenue Officials, more particularly, the Tahsildar of Thirupparankundram Taluk. Therefore, at this stage, we cannot issue any direction for either removal of the alleged encroachment nor we can permit the respondent corporation to proceed further pursuant to the impugned notice, dated 20.11.2020.

5. Therefore, we dispose of W.P(MD) Nos.1939 of 2020 and 1237 of 2021, by directing the third respondent, The Tahsildar, Thirupparankundram Taluk, to issue notice to the petitioner in both the writ petitions and the Corporation of Madurai, conduct a survey in the presence of the parties and thereafter, enquire into the matter and pass a reasoned order on merits and in accordance with law. It is needless to state that the alleged encroacher-P.Ganesan, the petitioner in W.P(MD) No.1237 of 2021 should be put on notice. Consequently, the notice issued by the Corporation of Madurai, dated 20.11.2020, shall be kept in abeyance, till the enquiry is to be concluded by the Tahsildar in terms of the above direction. This direction be complied with within a period of 12 weeks from the date of receipt of a copy of this order. There will be no order as to costs. W.M.P.(MD)No.1052 of 2021 is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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*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 Commissioner,  
Madurai City Municipal Corporation, Madurai.

2.The Assistant Commissioner,  
Madurai City Municipal Corporation,  
Zone No.4 (South), Madurai.

3.The Assistant Engineer,  
Madurai City Municipal Corporation,  
Zone No.4 (South), Madurai.

4.The Junior Engineer,  
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5.The District Collector,  
Madurai District, Madurai.

6.The Commissioner,  
Madurai Corporation,  
Arignar Anna Maligai, Madurai.

7.The Tahsildar,  
Thiruparankundram Taluk,  
Madurai West, Madurai District.

8.The District Surveyor,  
Madurai Corporation,  
Arignar Anna Maligai, Madurai.

9.The Village Administrative Officer,  
Madakulam Village,  
Madakulam Main Road,  
Palanganatham, Madurai.

+2 CC to M/s.T.S.MOHAMED MOHIDEEN, Advocate SR-20260, 20251

+1 CC to M/s.T.R.JEYAPALAM, Advocate SR-20389

+1 CC to Mr. Special Government Pleader, SR.No.20419

W.P.(MD) Nos.1237 of 2021 and 1939 of 2020  
25.06.2021

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