



WEB COPY

W.P.[MD]No.9726 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.9726 of 2021

and

W.M.P.[MD]Nos.7424 & 7425 of 2021

Murugan

... Petitioner

Vs.

1.The Tahsildar,
Office of the Villathikulam Taluk Office,
Villathikulam,
Thoothukudi District.

2.The Block Development Officer,
Villathikulam Block Development Office,
Villathikulam,
Thoothukudi District.

3.The President,
Vilvamarathupatti Village Panchayat,
Ayyanbommayapuram Post,
Villathikulam Post,
Thoothukudi District.

4.Alagumalai

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the impugned orders issued by the first respondent in his proceedings in Aa7/3969/2020 dated 01.12.2020 and consequential proceedings issued by the second respondent in Thi.1/3533/2018 dated 14.12.2020 and quash the same.

For Petitioner	: Mr.C.Jeganathan
For Respondents 1 to 3	: Mr.A.K.Manickam
	Standing Counsel for Government

O R D E R

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

With the consent on either side, the Writ Petition itself is taken up for final disposal.



2.Heard Mr.C.Jeganathan, learned Counsel appearing for the petitioner and Mr.A.K.Manickam, learned Standing Counsel for Government appearing for respondents 1 to 3.

3.In the light of the orders we propose to pass in this writ petition, notice to the fourth respondents is dispensed with.

4.The petitioner is aggrieved by two communications sent by the first and second respondents dated 01.12.2020 and 14.12.2020, wherein it has been stated that the petitioner has encroached a public street and these communications have emanated from the respondents based on the complaint given by the fourth respondent, who is a neighbour of the petitioner.

5.The petitioner would contend that he did not have any opportunity and without notice, action is being initiated. The petitioner need not have any such apprehension, as this Court would direct that the petitioner shall treat the communications dated 01.12.2020 and 14.12.2020 as show cause notices and give his reply within seven [7] days from the date of receipt of a copy of this order, including all records to prove the extend owned by him. In other words, the burden of proof is on the petitioner to state that he is not an encroacher. If the petitioner wants to see the survey report, copy may be furnished by the second respondent. After receiving the reply from the petitioner, the first respondent shall pass a speaking order on merits and in accordance with law, after notice to the fourth respondent, within a reasonable time thereafter. Till then, the *status quo* which is prevailing as on date in respect of the property in question, shall be maintained.

6.Accordingly, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

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.



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Ayyanbommayyapuram Post,
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+1 CC to M/s.SPL GP (SR-19028[F] dated 08/06/2021)

ORDER MADE IN
W.P. [MD]No.9726 of 2021

04.06.2021

GS (17.06.2021) 3P 5C