



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.12140 of 2021

WEB COPY

N.Chandrakumar

... Petitioner

Vs.

1.The District Collector,
Sivagangai,
Sivagangai District.

2.The Tahsildar (Land Survey),
O/o. The Tahsildar Office,
Tiruppathur,
Sivagangai District.

3.The Executive Officer / Special Officer,
Selection Grade Town Panchayat,
Tiruppathur,
Sivagangai District.

4.V.Sivagurunathan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to forbear the third respondent from taking any action regarding removal of encroachment in respect of Survey No.372/16 situated at Old Ward No.5, New Ward No.6, Madurai Road, Tiruppathur, Sivagangai District in terms of order dated 22.03.2021 made in W.P.[MD]No.3981 of 2020 without issuing any notice or due opportunity / personal hearing to the petitioner by considering the petitioner's representation dated 28.06.2021 within the period that may be stipulated by this Court.

For Petitioner	: Mr.C.Venkatesh Kumar
	For M/s.Ajmal Associates
For Respondents 1&2	: Mr.A.K.Manickam
	Standing Counsel for Govt.,
For Respondent No.3	: Mr.D.Gandiraj
	Government Advocate

O R D E R

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

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

2.We have heard Mr.C.Venkatesh Kumar, learned Counsel for M/s. Ajmal Associates, appearing for the petitioner, Mr.A.K.Manickam,

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



learned Standing Counsel for Government appearing for respondents 1 & 2 and Mr.D.Gandiraj, learned Government Advocate appearing for the third respondent.

3.The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus, to forbear the third respondent from taking action alleging that the petitioner is an encroacher, solely on the ground that a third party had filed a Writ Petition in W.P. [MD]No.3981 of 2020, in which, the petitioner herein was not impleaded as a party and the writ petition was disposed of by directing the authorities to take appropriate action towards removal of encroachments in accordance with law, after due notice to the parties concerned.

4.The third respondent in pursuance to the said direction, has issued the impugned notice. On a reading of the notice, we find that the third respondent has already come to a conclusion that there is an encroachment in the lane and for removing the encroachment, survey is supposed to be conducted. The Hon'ble Division Bench while disposing of W.P.[MD]No.3981 of 2020 dated 22.03.2021, directed notice to be issued to the parties concerned. Therefore, the notice should be a show cause notice calling upon the petitioner to show cause as to why he should not be treated as an encroacher.

5.However, for such reason, we are not inclined to set aside the notice, more so, when the petitioner has not challenged the notice dated 21.06.2021. But with a view to afford an opportunity to the petitioner, we direct the petitioner to treat the notice dated 21.06.2021 as the show cause notice and submit their reply within seven [7] days from the date of receipt of a copy of this order and on receipt of the reply along with enclosures and documents, if any, the third respondent shall inquire into the same and after having been satisfied that there is encroachment, the third respondent is directed to proceed further in the matter and take appropriate action in accordance with law within a period of fifteen [15] days therefrom. The third respondent shall also issue notice to V.Sivagurunathan, who is the person who has filed the earlier writ petition.

6.With the above direction, the Writ Petition stands disposed of. However, there shall be no order as to costs.

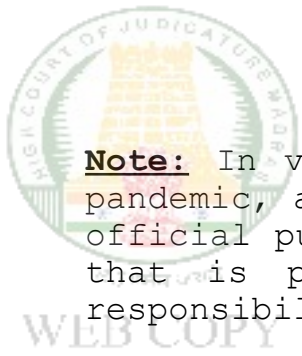
Sd/-

Assistant Registrar (P&A)

// 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.

To

- 1.The District Collector,
Sivagangai,
Sivagangai District.
- 2.The Tahsildar (Land Survey),
O/o. The Tahsildar Office,
Tiruppathur,
Sivagangai District.
- 3.The Executive Officer / Special Officer,
Selection Grade Town Panchayat,
Tiruppathur,
Sivagangai District.

+1 CC to M/s.GP (SR-23491[F] dated 22/07/2021)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-23422[F] dated 22/07/2021)

W.P.[MD]No.12140 of 2021
20.07.2021

MGJ(02.08.2021) 3P 6C