



WEB COPY

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.12322 of 2021

and

W.M.P (MD) .No.9673 of 2021

Vellaichami

.. Petitioner

Vs

1. The District Collector,
Sivagangai District, Sivagangai.
2. The Revenue Divisional Officer,
Devakottai,
Sivagangai District.
3. The Tahsildar,
Singampunari Taluk, Sivagangai District.
4. The Block Development Officer,
Singampunari Panchayat Union,
Sivagangai District.
5. The President,
Maruthipatti Village Panchayat,
Maruthipatti,
Singampunari Taluk,
Sivagangai District.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorari calling for the records relating to the impugned notice of the fifth respondent dated 06.07.2021 and quash the same as illegal, arbitrary.

For Petitioner

: Mr.V.S.Kishok Kumar

For respondents

: Mr.A.K.Manikkam,
Standing Counsel for
Government

ORDER

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

Heard Mr.V.S.Kishok Kumar, learned Counsel appearing for the writ petitioner and Mr.A.K.Manikkam, learned Government Counsel



appearing for the respondents.

2. The writ petitioner is aggrieved by the notice issued by the fifth respondent dated 06.07.2021, by which, the fifth respondent has informed the petitioner that inspite of ten days having been granted for removal of the encroachment as requested by the petitioner, the same has not been removed and therefore, action is going to be taken.

3. The petitioner's case is that the construction which has been put up is not a hindrance and it is almost fifteen feet away from the road and the petitioner has been requesting for demarcation of the property and also paid the requisite fees and the Authorities have not measured the property.

4. The learned Government Counsel appearing for the respondents, on instructions, submitted that the petitioner and two others, namely, Mr.Ganesan, S/o. Veeranan Konar and Mr.Rajendran, S/o.Velu Konar, all the three of them have consented to remove the encroachments by themselves and contrary to the undertaking given, now the present writ petition has been filed.

5. In our considered view, there is no error in the procedure adopted by the respondents nor there is any illegality in the impugned notice for this Court to quash the proceedings. It is not clear as to whether the petitioner and two others have given a written undertaking or an oral undertaking. However, with the view to ensure that the encroachment, if any, is fully removed, we direct the fifth respondent to measure the property in the presence of the petitioner within two days from the date of receipt of a copy of this order and thereafter, give four days time for the petitioner to remove the offending construction, if any. If he fails to do so, it is open to the fifth respondent to remove the same and recover the cost from the petitioner.

6. With the above directions, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

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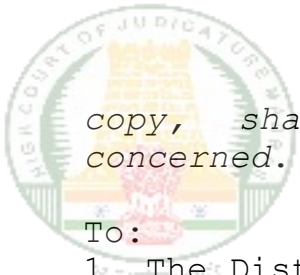
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Sub Assistant Registrar (CS)

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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

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copy, shall be the responsibility of the advocate/litigant concerned.

To:

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RD(20.07.2021) 3P 6C