



W.P.(MD) No.10261 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

and

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

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The Vikaram Multi Speciality Hospital,
Vikram Trust,
(Reg.No.180-12-13)
Represented by its Trustee,
Dr.V.N.Veera Rajkumar,
S/o.Dr.V.Narayanasamy,
No.3/424, Sivagangai Main Road,
Ring Road Junction, Madurai – 20.

... Petitioner

Vs.

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The Project Director,
National Highways Department,
Trichy District,
Trichy.



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- 3.The Thasildar,
Madurai East Taluk,
Madurai.
- 4.The Commissioner,
Madurai Corporation,
Madurai.
- 5.The Eagle Deep,
Trichy Bye Pass Toll Ways India Pvt. Ltd.,
Eagle Nest, Block No.758,
Behind Chopra Court,
Uthasnagar,
Thane Maharastra – 421 003.
- 6.Mariyappan
- 7.Priyadarshini
- 8.The Divisional Engineer,
State Highways Project Division,
Madurai.
(R8 suo-motu impleaded vide Court
Order dated 09.11.2022)

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to remove the encroachment made by the 6th and 7th respondents in the land belonging to the 2nd respondent in Melamadai Village, Ring Road, Madurai to an extent of 0.0070 Square Meters on the Western side of the Hospital building, based on the report and sketch of



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the 3rd respondent by considering the representations of petitioner dated 8.8.2017, 29.03.2018 and 06.01.2020, within the stipulated period of time.

For Petitioner : Mr.S.Thamizharasan

For Respondents : Mr.G.V.Vairam Santhosh
Addl. Govt. Pleader for R1, R3 & R8
Mr.Arul Vadivel @ Sekar for R2
Mr.R.Murali for R4
Mr.A.R.Sethupathy for R6 & R7
No Appearance for R5

ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to remove the encroachment made by the 6th and 7th respondents in the land belonging to the 2nd respondent in Melamadaï Village, Ring Road, Madurai, to an extent of 0.0070 Square Meters on the western side of the hospital building, based on the report and sketch of the 3rd respondent by considering the representations of the petitioner dated 08.08.2017, 29.03.2018 and 06.01.2020, within a time frame.



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2. It is the claim of the petitioner that the respondents 6 and 7 have made the aforesaid encroachments in the land in question, which belongs to the second respondent. In this regard, though the petitioner made representations on 29.03.2018 seeking to remove the encroachment and pursuant thereto, the Tahsildar concerned surveyed the lands and furnished the details of encroachment with sketch indicating the extent of encroachments and despite the Madurai Corporation requested the second respondent vide letter dated 16.07.2018, the aforesaid encroachments were not removed. Therefore, the petitioner made a representation dated 06.01.2020 to the first respondent, but till date, it has not been considered. Hence, this Writ Petition.

3. The learned Special Government Pleader appearing for the official respondents submitted that the representations of the petitioner dated 29.03.2018 and 06.01.2020 would be considered by the official respondents and appropriate action will be taken to remove the encroachment, for which, the learned counsel for the petitioner is agreeable.



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4. The respondents 6 and 7 have filed a typed set of papers and the learned counsel for respondents 6 and 7 submitted that the respondents 6 and 7 are not encroachers and the property occupied by them in the subject place was purchased by the 7th respondent for a valid consideration and a patta has also been issued therefor. However, the details of their property have been wrongly mentioned in the revenue records and therefore, the 7th respondent has also made a representation on 03.10.2022 to the first respondent, seeking rectification in the revenue records. In the said representation, the 7th respondent has also enclosed the registered sale deed copy and patta copy. Thus, the learned counsel for the respondents 6 and 7 submitted that 7th respondent is *bona fide* purchaser of the property in the subject land. Thus, the Writ Petition is liable to be dismissed.

5. In view of the above, the first respondent shall enquire into the matter after giving notice to the petitioner, respondents 6 and 7 and consider their objections. The first respondent shall decide as to whether the subject place is public place or private property after conducting a full-fledged enquiry with the



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parties. If the first respondent finds that the subject place is not a private property and there are encroachments therein, then it shall be removed by the authorities concerned after affording sufficient opportunity to all the parties and by due process of law. If the first respondent requires police protection, appropriate police protection shall be given by the jurisdictional Inspector of Police concerned, for removal of such encroachment. Such an exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order. No costs.

[R.M.D., J.] [J.S.N.P., J.]

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vsm



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