



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

and

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.12373 of 2022

Pon Sriram

.. Petitioner

Vs.

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The District Revenue Officer,
Thoothukudi District,
Thoothukudi.

3.The Tahsildar,
Tiruchendur Taluk Office,
Thoothukudi District.

4.The Block Development Officer,
Udangudi Union, Tiruchendur Taluk,
Thoothukudi District.

5.Rameshkumar

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondents 1 to 4 to remove the encroachment made by the 5th respondent in common pathway in Survey No.472/36 with an extent of 00.17 sq.ft., at Eastern side, Theriyur, Chettiapathu Village, Udangudi Union, Tiruchendur Taluk, Thoothukudi District by considering the petitioner's representation dated 01.04.2022.

For Petitioner	:	Mr.S.Muniyandi
For R1 to R3	:	Mr.S.P.Maharajan Special Government Pleader
For R4	:	Mr.T.Amjath Khan
For R5	:	Mr.Anand C.Rajesh

ORDER

(Order of the Court was made by S.S.SUNDAR.J.,)

This writ petition is filed for issuance of a Writ of Mandamus directing the respondents 1 to 4 to remove the encroachment made by the fifth respondent in common pathway in Survey No.472/36 with an extent of 00.17 sq.ft., at Eastern side, Theriyur, Chettiapathu



Village, Udangudi Union, Tiruchendur Taluk, Thoothukudi District, by considering the petitioner's representation dated 01.04.2022.

2.Heard Mr.S.Muniyandi, learned counsel appearing for the petitioner, Mr.S.P.Maharajan, learned Special Government Pleader appearing for the respondents 1 to 3, Mr.T.Amjath Khan, learned counsel appearing for the fourth respondent and Mr.Anand C Rajesh, learned counsel appearing for the fifth respondent.

3.The case of the petitioner is that the fifth respondent has encroached the common pathway in Survey No.472/36 to an extent of 17 sq. meters, at eastern side of Theriyur, Chettiapathu Village, Udangudi Union, Tiruchendur Taluk, Thoothukudi District.

4.The petitioner has filed a writ petition, after sending a representation dated 01.04.2022 to the respondents. The petitioner has also produced relevant records as to how the encroachment made by the offending construction put up by the fifth respondent. Though normally this Court is expected to issue notice to the fifth respondent, having regard to the nature of order proposed by this Court, this Court is of the view that no serious prejudice will be caused to the fifth respondent if appropriate direction is issued to the official respondent.

5.The learned counsel representing Mr.Anand C Rajesh, submitted that he undertakes to file vakalat and he may be permitted to state his case, after getting instructions from the fifth respondent.

6.This Court, in several cases, indicated the manner and procedure should be adopted by the respondent in the case of removal of encroachment.

7.Without expressing any opinion on the merits of the petitioner's representation or the contentions raised by the petitioner in the affidavit filed in support of this writ petition, this Court is inclined to pass the following directions:

(i)In the course of hearing, the learned Special Government Pleader appearing for the respondents 1 to 3 submitted that there are complaints about other encroachments committed by the different persons and therefore, the Block Development Officer has now requested the Tahsildar concerned to conduct survey in the presence of encroachers and the local body officials, so as to identify the encroachment.

(ii)On receipt of such report from the Tahsildar, it is open to the Block Development Officer or the Executive Officer of the Panchayat to take appropriate action under the provisions of the Tamil Nadu Panchayat Act 1994 as contemplated under Section 131 of the Tamil Nadu Panchayat Act.

(iii)In case, the officials of the local body is unable to remove the encroached area or to evict the unauthorized occupants,



it is open to the local body to make a representation/reference to the third respondent.

(iv) Upon receipt of such representation/reference from the fourth respondent-local body, the third respondent is directed to consider the request of the local body and take appropriate action under the provision of the Tamil Nadu Land Encroachment Act, 1905, after following the procedure in accordance with law, within a period of six weeks from the date of receipt of the representation/reference from the local body.

8. Accordingly, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

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To

1. The District Collector,
Thoothukudi District,
Thoothukudi.
2. The District Revenue Officer,
Thoothukudi District,
Thoothukudi.
3. The Tahsildar,
Tiruchendur Taluk Office,
Thoothukudi District.
4. The Block Development Officer,
Udangudi Union, Tiruchendur Taluk,
Thoothukudi District.

+1 CC to M/s. ANANTH C. RAJESH, Advocate (SR-27047[F]
dated 21/06/2022)

+1 CC to M/s. SPL.GP (SR-27421[F] dated 22/06/2022)

W.P. (MD) .No.12373 of 2022
20.06.2022

NSN (CO)

GC (05.07.2022) 3P 7C