



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2022

CORAM

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**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P(MD)No.12613 of 2022

Ambika

...Petitioner

Vs.

1.The District Collector,
Trichy District.

2.The Tahsildar,
Manapparai Taluk, Trichy District.

3.The Block Development Officer,
Manapparai, Trichy District.

4.Rajammal

5.Kamalam

6.Kulanthaivel

...Respondents

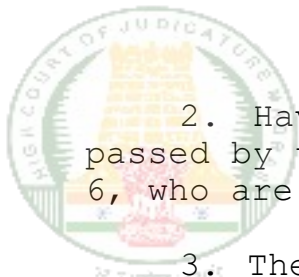
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 3 to remove the encroachments in Sy.No.345/50 (street), Mondipatti Village, Manapparai Taluk, Trichy District made by the respondents 4 to 6 by considering the petitioner's representation dated 20.04.2021 and 06.07.2021.

For Petitioner	:	Mr.K.P.Narayanakumar
For R-1 & R-2	:	Mr.S.P.Maharajan, Special Government Pleader
For R-3	:	Mr.J.Ashok, Additional Government Pleader

O R D E R

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

Heard Mr.K.P.Narayanakumar, learned counsel for the petitioner, Mr.S.P.Maharajan, learned Special Government Pleader for R-1 & R-2 and Mr.J.Ashok, learned Additional Government Pleader for R-3.



2. Having regard to the nature of the order proposed to be passed by this Court, no notice is necessary to the respondents 4 to 6, who are impleaded as encroachers.

3. The writ petition has been filed seeking for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to remove the encroachments made by respondents 4 to 6 in Survey No.345/50(street), Mondipatti Village, Manapparai Taluk, Trichy District, by considering the petitioner's representation, dated 20.04.2021 and 06.07.2021.

4. The grievance of the petitioner is that the private respondents, namely, the respondents 4 to 6, have encroached a portion of the public street and thereby causing hindrance to the free access to the public and the petitioner. In this regard, the petitioner has submitted a representation to the first respondent. Though the first respondent has forwarded the representation of the petitioner to respondents 2 and 3 and the second respondent after conducting survey has found the encroachments of respondents 4 to 6, it is stated by the learned counsel appearing for the petitioner that no further action has been taken by the other respondents.

5. Considering the facts and circumstances of the case, without expressing any opinion on the merits of the case, this Court is inclined to pass the following order:

(i) The respondents 2 and 3 are directed to consider the representation of the petitioner and initiate proceedings for removal of encroachment after conducting a survey and demarcation by directing the survey in the presence of the petitioner as well as the respondents 4 to 6. In case, the respondents 4 to 6 are found to be in encroachment in any public street, it is open to the third respondent to initiate action under Section 131 of the Tamil Nadu Panchayats Act, 1994 read with the relevant provision. If the third respondent is unable to take possession of the encroached area or remove the encroachment, within the time prescribed under the Tamil Nadu Panchayats Act, 1994, it is open to the third respondent to refer the matter to the second respondent, who in turn has to take action under the provisions of the Tamil Nadu Land Encroachment Act, 1905.

(ii) It is made clear that after issuing a show-cause notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, in case of the local body is unable to get possession of the encroached area, the second respondent may complete the eviction process under the Tamil Nadu Land Encroachment Act, 1905, within a period of six weeks from the date of receipt of a copy of reference or communication from the local body.



(iii) It is also made clear that at every stage, the respondents 4 to 6 should be heard and the principles of natural justice should be observed before passing final order of eviction.

With the above direction, the writ petition is disposed of.
No Costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

PM

To:

- 1.The District Collector,
Trichy District.
- 2.The Tahsildar,
Manapparai Taluk, Trichy District.
- 3.The Block Development Officer,
Manapparai, Trichy District.

+1 CC to M/s.K.P. NARAYANA KUMAR, Advocate (SR-27598[F] dated 23/06/2022)

+1 CC to M/s.SPL.GP (SR-27731[F] dated 23/06/2022)

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MGJ(04.07.2022) 3P 6C