



W.P(MD)No.12933 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2022

CORAM:

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

W.P(MD)No.12933 of 2022

S.Aruna Shanmuganathan

... Petitioner

VS.

1.The Commissioner,
Tirunelveli City Municipality,
Tirunelveli.

2.The Assistant Commissioner,
Ward Office,
Tirunelveli.

3.The Assistant Commissioner,
Public Works Department,
Tirunelveli.

4.Subramanian

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 to 3 to remove the encroachment made by the fourth respondent in T.S.No.1372/1C and T.S.No.1376/14, situated in Ward No.5, AJ, Block 24, Thatchanallur Ward, Tirunelveli District considering the representations of the petitioner, dated 06.09.2021, 16.12.2021 and 05.02.2022.



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For Petitioner : Mr.H.Arumugam
For RR 1 to 3 : Mr.G.V.Vairam Santhosh
Additional Government Pleader
For R – 4 : Mr.M.Sangu Vijay

ORDER

(Order of the Court was made by R.MAHADEVAN, J.)

The prayer made in this Writ Petition is to issue a Writ of Mandamus, directing the respondents 1 to 3 to remove the encroachment made by the fourth respondent in T.S.No.1372/1C and T.S.No.1376/14, situated in Ward No.5, AJ, Block 24, Thatchanallur Ward, Tirunelveli District considering the representations of the petitioner, dated 06.09.2021, 16.12.2021 and 05.02.2022.

2. The learned counsel appearing for the petitioner submitted that the land in T.S.No.1376 originally earmarked for road as per the earlier approved lay out. Subsequently, the fourth respondent constructed a wall obstructing the said T.S.No.1376. The suit filed by the father of the fourth respondent in the year 1983 for a permanent injunction restraining the first respondent from demolishing the said wall, was also dismissed. Thereafter,



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the fourth respondent obtained classification of the said T.S.No.1376 as Ryotwari from the revenue authorities suppressing the earlier approved layout and thereafter, the fourth respondent also filed a suit in O.S.No.200 of 2021 before the District Court, Tirunelveli for a declaration in respect of the said T.S.No.1376, totally suppressing the dismissal of the earlier suit. According to the learned counsel appearing for the petitioner, the attempt of the fourth respondent to grab the said T.S.No.1376, which is earmarked for road, is due to the escalation of the price for the land. Though the petitioner made several representations to remove the said encroachment, till date, no action has been taken. Hence, this Writ Petition.

3. The learned counsel appearing for the fourth respondent submitted that though there was a scheme for laying road in T.S.No.1376 as per the original approved plan, but the same was not acted upon, which amounts to lapsing of the said scheme and thereafter, the said T.S.No.1376 was also classified as Ryotwari land. As such, the petitioner cannot claim that there are encroachments therein, since much water has flowed under the bridge.



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4. The learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that the representation of the petitioner, dated 05.02.2022 would be disposed of on merits and in accordance with law and appropriate action will be taken for removal of encroachment, if any, in the place in question by due process of law within a time frame.

5. In view of the abovesaid submissions, without going into the merits of the claim made by the petitioner, the authorities concerned are directed to consider the representation of the petitioner, dated 05.02.2022 and pass appropriate orders, on merits and in accordance with law. If there is any encroachment as claimed by the petitioner, after issuing notice and conducting survey in the presence of the petitioner and all other parties concerned, the authorities concerned shall take necessary action for removal of such encroachment, after affording sufficient opportunity of personal hearing to all the parties concerned, especially the fourth respondent, who claims that there is no such scheme available as on date and by following due process of law, within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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**[R.M.D.,J.] & [J.S.N.P.,J.]
22.11.2022**

Index : Yes / No
Internet : Yes
ps

To

- 1.The Commissioner,
Tirunelveli City Municipality,
Tirunelveli.
- 2.The Assistant Commissioner,
Ward Office,
Tirunelveli.
- 3.The Assistant Commissioner,
Public Works Department,
Tirunelveli.



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R.MAHADEVAN,J.

and

J.SATHYA NARAYANA PRASAD,J.

ps

**ORDER MADE IN
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22.11.2022