



W.P.(MD)No.15192 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2022

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THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

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J.Natarajan

... Petitioner

Vs.

- 1.The District Collector, Madurai District,
Madurai – 625 020.
- 2.The Revenue Divisional Officer, Melur Division,
Melur, Madurai -625 104.
- 3.The Tahsildar, Madurai East Taluk,
Y.Othakadai, Madurai District.
- 4.The Assistant Officer,
Zone-II, Madurai Corporation,
K.Pudur, Madurai – 625 007.
- 5.The Commissioner of Corporation,
Madurai Corporation, Annamalaigai,
Madurai-625 002.

6.Selvi

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the 1st to 5th respondents herein to take appropriate action for the removal of the encroachment made by the 6th respondent in between the 20 feet pathway in Ward No.9, S.No.1/2A and Government vacant land, namely, stream shore (Kammakarai) in



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Melamadai II Bit Village, Pandiyan Nagar, Pandikovil, Madurai-625 020
and by considering the petitioner's representation, dated 20.05.2022.

For Petitioner :Mr.A.Jeyaram
For R1 to R3 :Mr.S.P.Maharajan
Special Government Pleader
For R4 and R5 :Mrs.S.Devasena

ORDER

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

This Writ Petition is filed for issuance of a Writ of Mandamus to direct the 1st to 5th respondents herein to take appropriate action for the removal of the encroachment made by the 6th respondent in between the 20 feet pathway in Ward No.9, S.No.1/2A and Government vacant land, namely, stream shore (Kammakarai) in Melamadai II Bit Village, Pandiyan Nagar, Pandikovil, Madurai-625 020, by considering the petitioner's representation, dated 20.05.2022.

2.Mr.A.Jeyaram, learned Counsel for the petitioner, Mr.S.P.Maharajan, learned Special Government Pleader, who takes notice for R1 to R3 and Mrs.S.Devasena, learned Standing Counsel, who takes notice for R4 and R5. By consent of both parties, the Writ Petition is taken up for final disposal at admission stage itself.



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3.It is the case of the petitioner that the sixth respondent has encroached the public road by putting up a small hut and selling fruits and juices in a hand cart. However, the photographs produced by the petitioner do not show the actual encroachment by anyone. Further, the petitioner's photographs only indicate that somebody has parked a small hand cart. It is stated that the encroachment is by the sixth respondent, who is residing in a hut just opposite to the petitioner's house. The sixth respondent's hut is not even seen in the photograph. However, this Court find that there is some personal issues between the petitioner and the sixth respondent. It is admitted by the petitioner in the affidavit that the sixth respondent was a tenant under the petitioner.

4.The alleged encroachment does not indicate whether it is objectionable. This Court is unable to find any possibility of inconvenience to the public. But, assuming that there is no inconvenience to the public, any encroachment in public land may cause inconvenience to the public in future. Therefore, even if there is any encroachment by the sixth respondent, it may be removed by following procedure. In such circumstances, this Writ Petition is disposed of with the following directions:



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(1)The Town Surveyor, attached to the Madurai Corporation, is directed to conduct a survey in the presence of the petitioner and the sixth respondent or any other persons interested, after issuing prior notice to them.

(2)If any encroachment is found at the instance of the petitioner or sixth respondent by putting up unauthorised construction, the same should be taken care of by the fifth respondent at the first instance and the fifth respondent is directed to take appropriate action against those encroachers without any discrimination, after issuing show cause notice and passing appropriate order. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of report from the Town Surveyor, after following the procedure contemplated under law.

No costs.

[S.S.S.R., J.] [S.S.Y., J.]
14.07.2022

Index : Yes / No

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