



W.P.(MD)No.24485 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.10.2022

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CORAM

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

W.P(MD)No.24485 of 2022
and
W.M.P.(MD) No.18565 of 2022

T.Ayyappan

... Petitioner

Vs.

- 1.The District Collector,
Thanjavur District,
Thanjavur.
- 2.The Tahsildar,
Orathanadu Taluk,
Thanjavur District.
- 3.The Block Development Officer,
Orathanadu,
Thanjavur District.
- 4.The Union Councilor,
Kannukkudi West Village,
Orathanadu Taluk,
Thanjavur District.
- 5.The Village President,
Kannukkudi West Village,
Orathanadu Taluk,
Thanjavur District.
6. Uthirapathi

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.473/2022/A2 dated 11.10.2022 passed by the 3rd respondent and quash the same as illegal and consequently forbear the respondents 1 to 5 from dispossessing the petitioner under the pretext of encroachment.

For Petitioners : Mr.K.Baalasundharam

For Respondents 1 to 5 : Mr.V.Nirmal Kumar
Government Advocate

* * *

ORDER

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

The petitioner has come forward with this writ petition, challenging the impugned order in Na.Ka.No.473/2022/A2 dated 11.10.2022 passed by the 3rd respondent and consequently, for a direction to forbear the respondents 1 to 5 from dispossessing the petitioner under the pretext of encroachment.

2. Heard Mr.K.Baalasundharam, learned counsel for the petitioner and Mr.V.Nirmal Kumar, learned Government Advocate, who accepts notice on behalf of the respondents 1 to 5. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.



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3. Having regard to the nature of the order proposed to be passed in this writ petition, notice to the sixth respondent is dispensed with.

4. The learned counsel for the petitioner submitted that the sixth respondent has filed a Writ Petition in W.P.(MD) No. 22369 of 2022, seeking a direction to the respondents 1 to 3 and 5 herein to remove the encroachment made by the petitioner and one Anjali on the road margin and drainage system comprised in Survey Nos.53/18C, 53/20B and 53/37 situated at Vallaiyar Street, Kannukudi West Village, Orathanadu Taluk, Thanjavur District, and based on the proceedings of the official respondents, this Court, by order dated 22.09.2022, disposed of the said Writ Petition, directing the respondents 2, 3 and 5 to remove the aforesaid encroachment after affording an opportunity of hearing to the petitioner and the said Anjali and by following due process of law.

5. He would further submit that pursuant to the order of this Court, the third respondent issued the impugned



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proceedings dated 11.10.2022, directing the petitioner to remove the encroachment. According to the learned counsel, the sixth respondent has obtained the above said order from this Court suppressing the facts that the petitioner has constructed the house and compound wall within the boundaries of his patta land and he has also filed a suit in O.S.No.22 of 2022 before the learned District Munsif cum Judicial Magistrate, Orathanadu and the same is pending. Hence, the petitioner has approached this Court with this Writ Petition.

6. Considering the peculiar facts and circumstances of the case and the submissions of the learned counsel on either side, we are not inclined to quash the impugned proceedings of the third respondent since it is passed based on our order dated 22.09.2022, in W.P.(MD) No.22369 of 2022 and the said order speaks for itself, but, on the other hand, we dispose of this Writ Petition with a clarification to the order of this Court dated 22.09.2022, in W.P.(MD) No.22369 of 2022, to the effect that since the main allegation of the petitioner is that the land in dispute is a private patta land, let a survey be conducted in the presence of all the parties concerned before proceeding further for removing the



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encroachment by due process of law and the entire exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

[R.M.D., J.] [J.S.N.P., J.]
28.10.2022

Internet : Yes / No
Index : Yes / No
sj

To

- 1.The District Collector,
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R.MAHADEVAN, J.

and

J.SATHYA NARAYANA PRASAD, J.

sj

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