



W.P.(MD)No.24457 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.10.2022

CORAM

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

W.P(MD)No.24457 of 2022
and W.M.P.(MD) No.18540 of 2022

1.Ganesan

2.T.Senthamarai

3.G.Suresh

... Petitioners

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Revenue Divisional Officer,
Thirumangalam,
Madurai District.

3.The Tahsildar,
Thirupparankundram Taluk,
Madurai District.

4.The Assistant Director of Village Panchayats,
Madurai District.

5.The Block Development Officer,
Thirupparankundram Panchayat Union,
Madurai District.

6.The Village Administrative Officer,
Perungudi Village,
Madurai District.



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7.The President,
Perungudi Village Panchayat,
Madurai District.

8.Shanmugapandiyan

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 1 to 7 from initiating any proceedings either under the Tamilnadu Land Encroachment Act, 1905 or under the Tamil Nadu Panchayat Act, 1994 in respect of the subject property in the Natham Survey No.332/23, Amman Kovil Street, Perungudi Village, Thirupparankundram Taluk, Madurai District.

For Petitioners : Mr.J.Barathan

For Respondents 1 to 4 & 6 : Mr.N.GA.Nataraj
Government Advocate

For Respondents 5 and 7 : 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 praying to issue a writ of mandamus, forbearing the respondents 1 to 7 from initiating any proceedings either under the Tamilnadu Land Encroachment Act, 1905 or under the Tamil Nadu Panchayat Act, 1994, in respect of the property in Natham Survey No.332/23,



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Amman Kovil Street, Perungudi Village, Thirupparankundram Taluk,
Madurai District.

2. Heard Mr.J.Barathan, learned counsel for the petitioners, Mr.N.GA.Nataraj, learned Government Advocate, who accepts notice on behalf of the respondents 1 to 4 and 6 and Mr.V.Nirmal Kumar, learned Government Advocate, who accepts notice on behalf of the respondents 5 and 7. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

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

4. The learned counsel for the petitioners submitted that the eighth respondent has filed a Writ Petition in W.P.(MD) No. 23123 of 2022, seeking a direction to the respondents 1 to 7 herein to remove the encroachments made by the petitioners 1 and 2 herein in the aforesaid public pathway in Survey No.332/23 and based on the submissions of the learned Additional Government



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Pleader appearing for the respondents 1 to 6, this Court, by order dated 30.09.2022, disposed of the said Writ Petition, directing the authorities concerned, to inspect the area in question, ascertain as to whether there is any encroachment as projected by the eighth respondent in his representations, and further directed that if there is any encroachment, the same shall be removed in the manner known to law, within a period of eight (8) weeks from the date of receipt of a copy of that order, after giving sufficient opportunity to all the parties concerned. Pursuant to the order of this Court, the official respondents 1 to 7 have inspected the subject property on 17.10.2022 and stated that they would demolish the residential buildings belonging to the petitioners. According to the petitioners, Natham Survey No.332/23 is classified as a common pathway, in which, the second petitioner and eighth respondent alone have access to their houses and the authorities of revenue department and local body have no right over it and if the eighth respondent is aggrieved, he has to approach the competent Civil Court. Hence, the petitioner has approached this Court with this Writ Petition.

5. By producing the proceedings of the third respondent - Tahsildar in Na.Ka.No.4003/2020/C, dated 26.10.2022,



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addressed to him, the learned Government Advocate appearing for the respondents 1 to 4 and 6, on instructions, submitted that S.No. 332/23 is classified as a common lane.

6. Considering the peculiar facts and circumstances of the case and the submissions of the learned counsel on either side, this Writ Petition is disposed of with a clarification to the order of this Court dated 30.09.2022, in W.P.(MD) No.23123 of 2022, to the effect that the authorities concerned shall first ascertain the actual status of the property in question i.e., whether it is a public lane or common lane and thereafter, proceed further in the manner known to law. Such an exercise shall be completed within a period of twelve 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.]
27.10.2022

Internet : Yes / No

Index : Yes / No

sj



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R.MAHADEVAN, J.

and

J.SATHYA NARAYANA PRASAD, J.

sj

To

- 1.The District Collector,
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