



W.P.(MD)No.25255 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2022

CORAM

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

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S.Somaselvakumar

... Petitioner

Vs.

- 1.The District Collector,
O/o The District Collector,
Madurai.
- 2.The Commissioner,
O/o Madurai Corporation,
Madurai.
- 3.The Assistant Commissioner,
Zone II, Madurai Corporation,
Madurai.
- 4.The Executive Engineer (Planning),
Madurai Corporation,
Madurai.
- 5.R.Maharajan
- 6.S.A.Muthukumar
- 7.R.Sumathi
- 8.R.Arumugam



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9.K.A.Jeyachandran

10.Rukkumaniammal

11.Karuppiah Servai

12.Kuppusamy Vasantha

13.Alagarsamy

14.Murugesan

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus, to direct the 1st to 4th respondents to take necessary action in respect of the encroachment made by the 5th to 14th respondents in public pathway measuring to an extent of 14 feet's width road running from North to South bearing Survey Ward I Block 38 TS.No. 4839 Zone II Ward 39 (now ward 28) at Chinnakanmai Street, Goripalayam, Madurai District within the time limit stipulated by this Hon'ble Court.

For Petitioner : Mr.R.Saravanan

For 1st Respondent : Mr.G.V.Vairam Santhosh
Additional Government Pleader

For Respondents 2 to 4 : Mrs.S.Devasena
Standing Counsel

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ORDER

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

WEB COPY

The petitioner has come forward with this writ petition praying to issue a writ of mandamus, directing the respondents 1 to 4 to take necessary action in respect of the encroachment made by the respondents 5 to 14 in the 14 feet width public road, running from North to South, in Survey Ward I, Block 38, T.S.No.4839, Zone II, Ward 39 (now ward 28) at Chinnakanmai Street, Goripalayam, Madurai District, within a time frame.

2. Heard Mr.R.Saravanan, learned counsel for the petitioner, Mr.G.V.Vairam Santhosh, learned Additional Government Pleader, who accepts notice on behalf of the 1st respondent and Mrs.S.Devasena, learned Standing Counsel, who accepts notice on behalf of the respondents 2 to 4. 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 respondents 5 to 14 is dispensed with.



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4. Alleging that the respondents 5 to 14, who are the residents of Chinnakanmai Street, have made encroachment in the the 14 feet width public road, running from North to South, in Survey Ward I, Block 38, T.S.No.4839, Zone II, Ward 39 (now ward 28) at Chinnakanmai Street, Goripalayam, Madurai District and thereby preventing the vehicles, including the Auto and Ambulance, to pass through the road, the petitioner submitted a representation to the official respondents on 27.06.2021, and in response to the same, though the third respondent vide proceedings in M2A9/03153/2021, dated 06.09.2021, has informed that steps are being taken to remove the encroachment, till date the encroachment has not been removed. Hence, the Writ Petition.

5. Learned counsel for the petitioner would further submit that though the petitioner has sought for a larger relief, he would be satisfied, if a direction is issued to the second respondent to dispose of his representation dated 27.06.2021, within a time frame.

6. Considering the limited scope of the prayer now sought for by the petitioner, without expressing any opinion on the



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merits of the claim made by the petitioner, either in the representation or in the affidavit filed in support of the Writ Petition, this Writ Petition is disposed of with a direction to the second respondent to consider the representation of the petitioner dated 27.06.2021, 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, the respondents 5 to 14 and any other parties concerned, the authorities concerned shall take necessary action for removal of the encroachment in the 14 feet width public road running from North to South in Survey Ward I, Block 38, T.S.No.4839, Zone II, Ward 39 (now ward 28) at Chinnakanmai Street, Goripalayam, Madurai District, after affording an opportunity of hearing to all the parties concerned and by following due process of law. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs.

[R.M.D., J.] [J.S.N.P., J.]
08.11.2022

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,
O/o The District Collector,
Madurai.

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