



W.P(MD)No.28026 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2022

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.28026 of 2022
and W.M.P(MD)No.22097 of 2022**

M.Rajapandi

... Petitioner

VS.

1.The District Collector,
O/o. The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Divisional Engineer,
Tamil Nadu Highways Department,
Thoothukudi.

3.The Assistant Divisional Engineer,
O/o.Assistant Divisional Engineer Office,
Highways Department,
Construction and Management Division,
Sathankulam,
Thoothukudi.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari and Mandamus, to call for the records pertaining to Ka.No.akiramippu/2022/ka/dated 09.11.2022 and quash the same as illegal and further direct the third respondent to conduct



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proper survey in Thanjanagaram, Pandarapuram Village, Sathankulam Taluk, considering the petitioner's representation, dated 25.11.2022 before assessing encroachment.

For Petitioner : Mr.M.Suriya Bagavandass

For Respondents : Mr.K.Balasubramani
Special Government Pleader

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The petitioner has filed the present Writ Petition for issuance of Writ of Certiorarified Mandamus, to quash the impugned order in Ka.No.akiramippu/2022/ka/dated 09.11.2022 and further directing the third respondent to conduct proper survey in Thanjanagaram, Pandarapuram Village, Sathankulam Taluk, considering the petitioner's representation, dated 25.11.2022 before assessing the encroachment.

2.According to the petitioner, he has purchased 2.5 cents of land in Puthukulam Village and registered the same in the office of the Sub-Registrar, Sattankulam and constructed a house. Further, according to the petitioner, he is running a petty shop along with his house property and



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paid house tax for all these years and the concerned Village Panchayat Board has also levied house tax, after completion of the construction. While so, the third respondent, without conducting proper survey and without providing an opportunity to the petitioner, has passed the impugned order, dated 09.11.2022, directing the petitioner to vacate the premises. Challenging the said impugned order, the petitioner has filed the present Writ Petition.

3.Mr.K.Balasubramani, learned Special Government Pleader appearing for the respondents, on instructions, submitted that on 04.08.2022, the property in Survey No.430 has been surveyed in the presence of the village Administrative Officer, Revenue Inspector and other officials and it was found that Survey No.430 has been classified as “மற்றவை/சாலை”. The learned Special Government Pleader has also placed the material before this Court by producing 'A' register and FMB sketch, in which, it is clearly stated that the aforesaid property in Survey No.430 is classified as “பாதை”.



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4.Heard the learned counsel appearing on either side and perused the materials available on record.

5.It is the contention of the petitioner that he has the right in the said property based on the sale deed, but, whereas, on a perusal of the said sale deed, it was found that survey number has been shown as 432, whereas, the subject property is in Survey No.430, which is classified as “மற்றவை/சாலை”. We have gone through the entire affidavit filed in support of the Writ Petition and the representation of the petitioner, wherein he has not specifically mentioned the survey number. In the said sale deed, Survey No.432 has been mentioned, whereas the petitioner has not clearly mentioned the survey number either in the affidavit filed in support of the Writ Petition or in the representation. Therefore, we are of the view that the petitioner has not come to this Court with clean hands by mentioning the correct survey number, in which, he is possession and enjoyment as of now.



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6.In view of the above, we are not inclined to quash the impugned order passed by the third respondent and accordingly, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,J.] [R.V.,J.]
14.12.2022

Index : Yes / No
Internet : Yes
ps

To

- 1.The Tahsildar,
Gujiliyamparai Taluk,
Dindigul District.
- 2.The Executive Officer,
Palayam Town Panchayat,
Gujiliyamparai Taluk,
Dindigul District.



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D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

ps

ORDER MADE IN
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DATED : 14.12.2022