



W.P.(MD) No.29139 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) No.29139 of 2022
and W.M.P.(MD)No.23094 of 2022

Kannusamy

... Petitioner

Vs.

- 1.The District Collector,
Virudhunagar,
Virudhunagar District.
- 2.The Thasildhar,
Sivakasi Taluk Office,
Sivakasi,
Virudhunagar District.
- 3.The Block Development Officer,
Vembakottai Union Office,
Vembakottai,
Virudhunagr District.



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4.The President,
Thayalpatti Village Panchayat,
Sivakasi Taluk,
Virudhunagar District.

5.Palanichamy

.... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records to call for the records of the fourth respondent impugned notice dated 13.12.2022 to the petitioner and quash the same illegal, malafide, arbitrary without jurisdiction and non application of mind.

For Petitioner : Mr.B.Muneeswaran

For Respondents : Mr.P.Thilakkumar,
Government Pleader for R1 to R4

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Challenging the impugned notice dated 13.12.2022 issued by the fourth respondent, the petitioner has filed this Writ Petition.



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2. Heard Mr.B.Muneeswaran, learned counsel for the petitioner and Mr.P.Thilakkumar, learned Government Pleader, who takes notice for the respondents 1 to 4. Considering the nature of the order proposed to be passed in this Writ Petition, notice to the fifth respondent is dispensed with.

3. By consent of both sides, this Writ Petition is taken up for final disposal.

4. According to the petitioner, there was a civil dispute between him and the 5th respondent. The 5th respondent has filed a writ petition before this Court in W.P.(MD)No.3827 of 2022, alleging that the petitioner herein has encroached the public street and constructed a compound wall and thereby obstructing the movement of the public over the said street. This Court by order dated 20.10.2022, disposed of the said writ petition, with the following directions:

“Considering the limited scope of the prayer now sought for by the petitioner, without expressing any opinion on the 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 fourth respondent to consider the



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WEB COPY *representation of the petitioner dated 20.01.2020 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, respondents 5 and 6 and all other parties concerned, the fourth respondent is directed to take necessary action for removal of encroachments in the place in question, after affording sufficient opportunity 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."*

Thereafter, as per the directions of this Court, the petitioner made a representation to the 2nd respondent on 09.12.2022, seeking to measure the property. However, without considering the said representation, the fourth respondent has issued the impugned notice dated 13.12.2022. Hence, the petitioner has filed this Writ Petition.

5. The learned Government Pleader appearing for the respondents 1 to 4 submitted that the impugned notice may be treated as show cause notice and the petitioner may be directed to submit his objections, which will be considered in the light of the order passed by this Court in W.P.(MD)No.3827 of 2020, dated 20.10.2022.



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6. Recording the above submission, the impugned notice is treated as show cause notice and the petitioner is directed to file his objections / reply to the same before the authorities concerned, along with all supporting materials, within a period of one week from today. After receipt of the same, the authorities concerned shall consider such objection and if it is not satisfactory, then conduct a proper enquiry and thereafter, shall pass orders in the light of the order passed by this Court in W.P.(MD)No.3827 of 2020, dated 20.10.2022, within a period of four weeks thereafter. Till such time, *status quo* prevailing as on date shall be maintained by both parties.

7. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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

23.12.2022

Index : Yes / No
Internet : Yes / No
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D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

vsm

To

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