



WP No.2117 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2023

CORAM

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No.2117 of 2023

R.Pathmanathan

... Petitioner

versus

1.The Commissioner,
Mettur Municipality,
Mettur Dam 736 401
Salem District.

2.V.Madhuraj

... Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records and order of the 1st respondent dated 19.01.2023 in Na.Ka.No.883/ 2022/F1 and quash the same as illegal and direct the first respondent to give alternative accommodation to the petitioner and 100 other encroachers who are residing in T.S.No.1, Block No.11, Ward No.B, New Colony, West Main Road, Mettur Dam, Salem District for more than 50 years.

For the Petitioner : Mr.J.Antony Jesus

For the Respondents : Mr.L.P.Maurya
for the first respondent

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ORDER

(Made by the Hon'ble Acting Chief Justice)

The petitioner has filed this writ petition challenging the notice issued by the first respondent, dated 19.01.2023, calling upon the petitioner to remove the encroachment.

2. The learned counsel for the petitioner would submit that the petitioner and his predecessors have been in enjoyment of the property in an extent of 171 sq.meter in T.S.No.1, Block No.11, Ward No.8, New Colony, West Main Road, Near Thermal Electricity Board Quarters, Mettur Dam, for more than 50 years. There are more than 100 houses and shops on either side of the road. It is submitted by learned counsel for the petitioner that the said encroachments have been recognised by the Mettur Municipality. The Municipality has also collected taxes from the encroachers and has also given electricity connection.

3. According to the petitioner, one V.Mathuraj has purchased land to an extent of 3.11 acre in T.S.No.10, Ward No.B, Block No.11, MTC Area, Mettur Dam and he has also prepared a layout. It is contended that the said



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V.Mathuraj had sold plots to various persons without getting approval for his layout from the Department of Town and Country Planning, and without allotting required land for road, park and the like. In order to get access to his property, the said V.Mathuraj filed a writ petition in WP No.2855 of 2022, for a direction upon the Commissioner, Mettur Municipality, to remove the encroachments put up by the petitioner and his brother. This Court, by order dated 07.03.2022, directed the Commissioner, Mettur Municipality, to consider the representation and dispose of the same, and if any encroachment is found, to remove it, after issuing notice to the affected parties. Only on that basis, the present impugned order has been passed.

4. The learned counsel further contended that the said V.Mathuraj has no right to have access to the road on the western side of his land as per the layout plan and the layout itself is unapproved and illegal. Therefore, the impugned order directing the petitioner to vacate from the land that they have been living for the past 50 years, is illegal and arbitrary.

5. Mr.L.P.Maurya, learned counsel appearing for the Commissioner, Mettur Municipality, would submit that the Commissioner has taken steps as



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per the orders of this Court in WP No.2855 of 2022, directing the Commissioner to remove the encroachments, after giving due notice to the affected parties.

Therefore, the action of the first respondent cannot be termed as illegal or arbitrary. The learned counsel submitted that not only the petitioner, but all other encroachers would also be removed in due course.

6. We are unable to find any merits in the arguments of the learned counsel for the petitioner. The petitioner, in paragraph 2 of the affidavit filed in support of the writ petition, has admitted that he is in possession of an extent of 171 sq.m. in T.S.No.1. Block No.11, New Colony, West Main Road, Near Thermal Electricity Board quarters, Mettur Dam, along with 100 other encroachers. It is therefore crystal clear that the petitioner and others are all encroachers. The impugned order has been passed only on the basis of the direction given by this Court in WP No.2855 of 2022, directing the first respondent to remove the encroachments.

7. The learned counsel for the first respondent also produced a copy of the Town Survey Field Register wherein the property is identified as Government Poromboke and classified as Municipal Town Council Road



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(நகராட்சி சாலை). Therefore, the order of the first respondent is fully justified.

8. The writ petition, therefore, fails and the same is dismissed. No costs. Consequently, WMP No.2200 of 2023 is closed.

(T.R., ACJ.) (D.B.C., J.)
30.01.2023

Index : Yes/No
Neutral Citation : Yes/No
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To
The Commissioner,
Mettur Municipality,
Mettur Dam 736 401
Salem District.



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T.RAJA, ACJ,
and
D.BHARATHA CHAKRAVARTHY, J.

(tar)

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