



W.P.(MD).No.13627 of 2009

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.12.2023

CORAM

**THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD).No.13627 of 2009
and
M.P.(MD).No.1 of 2009

M.Meena

.. Petitioner

Vs.

1.The Commissioner,
Thoothukudi Municipal Corporation,
Thoothukudi.

2.Madhu Anand

3.Rajamani

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, calling for the records relating to the proceedings in impugned order in Na.Ka.No.F1/5168/05/G1 dated 30.11.2009 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.G.Prabhurajadurai

For R-1 : Mr.N.Anandakumar
Standing Counsel

For R-2 & R-3 : No appearance



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ORDER

(Order of the Court was made by S.M.SUBRAMANIAM,J.)

The order dated 30.11.2009 passed under Section 256, 258 and 441 of the Tuticorin Municipal Corporation Act, 2008, is under challenge in the present Writ proceedings.

2. Encroachments are sought to be removed pursuant to the directions issued by this Court in W.P.(MD).No.10083 of 2008 dated 30.09.2009. When the first respondent initiated action to remove the encroachment by issuing the order impugned dated 30.11.2009, the present Writ Petition has been filed.

3. The Writ Petition is pending for the past about 14 years. The earlier orders of this Court reveals that a civil suit has been instituted. However, the suit is for injunction and a Civil Court decree cannot be a bar for the authorities to conduct survey, identify the encroachments, if any made and remove the same by following the procedures as contemplated under the Act.



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4. On account of the efflux of time of 14 years, we direct the first respondent Municipal Corporation to conduct a fresh survey and if any encroachments are identified, initiate all appropriate actions to remove the same by affording opportunity to the alleged encroachers and by following the procedures as contemplated under the Act. The said exercise is directed to be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

5. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

(S.M.S.,J.) (L.V.G.,J.)
18.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To
The Commissioner,
Thoothukudi Municipal Corporation,
Thoothukudi.



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S.M.SUBRAMANIAM,J.
and
L.VICTORIA GOWRI,J.

Lm

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