



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:**30.08.2023**

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P(MD)NO.2634 of 2022

Saranya Backiyam

:Petitioner

.VS.

1.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Melur @ Narasingampatti, Madurai.

2.The Tahsildar,
Melur Taluk,
Madurai District.

3.Gunasekaran

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to remove the encroachment made by the third respondent in S.No.517/43 of Chockalingapuram Village based on the first respondent's proceeding in Na.Ka.No.6722/2021/AA2, dated 29.11.2021.

For Petitioner

:Mr.S.Sukumar

For Respondents
1 and 2

:Mr.T.Villavan Kothai
Additional Govt.Pleader



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ORDER

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

This Writ Petition is filed seeking issuance of a Writ of Mandamus to remove the encroachment made by the third respondent in S.NO.517/43 in Chockalingapuram Village based on the proceedings of the first respondent, dated 29.11.2021.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.It is the case of the Writ Petitioner that the Petitioner had purchased an extent of 600 sq.ft in S.No.517/22B of Chockalingapuram Village, Melur Taluk, Madurai District and living in the residential house put up by her along with her family members. It is the case of the Petitioner that the Petitioner is using the pathway in S.No.517/43 which has been classified as "Pathway" as per the revenue records. Stating that the third respondent, who is the owner of the adjacent property, as an encroacher into the pathway in S.NO.517/43, the Petitioner has come by way of the present Writ Petition after a representation, dated 17.08.2021. The



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Petitioner has also relied upon the proceedings of the first respondent, dated 29.11.2021, in which, the Revenue Divisional Officer has only requested the Tahsildar concerned to consider the representation of the Petitioner. Therefore, from the records, this Court is unable to find any material to conclude whether the third respondent is in encroachment of the public road.

4.Be that as it may, the learned Additional Government Pleader appearing for the respondents 1 and 2, on instructions, submitted that the revenue officials have conducted a survey and found that the Petitioner as well as the third respondent have encroached some portion of the property, which is classified as "pathway".

5.In is in the said circumstance, we direct the first respondent to take appropriate action to remove the encroachment in the public road, after following the procedure and the order of this Court in similar cases where we insist that before initiating summary proceedings, the Tahsildar concerned should conduct survey of the land in question in the presence of the alleged encroacher. The Tahsildar, after ascertaining the encroachment in



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the presence of the alleged encroachers, should initiate further proceedings in the manner prescribed under the Tamil Nadu Land Encroachment Act, 1905. The above said exercise shall be commenced within a period of two weeks from the date of receipt of a copy of this order based on the proceedings of the first respondent for removal of encroachment and if it is found that there is encroachment, conclude the same within a period of eight weeks from the date on which survey of the land in question is completed and the report is drawn by the Tahsildar, which is served on the Petitioner and third respondent. It is also open to the Petitioner and the third respondent to raise all their objections with reference to the documents in their holding, at the time of enquiry.

6. With the above directions, the Writ Petition stands disposed of. No costs.

[S.S.S.R.,J.] [D.B.C,J.]
30.08.2023

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

vsn



To

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S.S.SUNDAR, J.

AND

D.BHARATHA CHAKRAVARTHY, J.

vsn

ORDER MADE IN

W.P(MD)No.2634 of 2022

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