



W.P(MD)Nos.20771 of 2013 & 1487 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2023

CORAM :

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

W.P(MD)Nos.20771 of 2013 & 1487 of 2014

and

M.P(MD)Nos.1, 2 of 2013

and

W.M.P(MD)No.14077 of 2017

W.P(MD)No.20771 of 2013:

M/s. The Annai Memorial Medical Trust,
Rep. by its Chairman,
Mrs.J.Latha,
W/o.C.John Stephen,
49-3B, Ayyanar Koil Street,
Nilayur,
Thiruparakundram,
Madurai District.

... Petitioner

Vs.

1.The District Collector
Collectorate,
Madurai District.



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2.The Tahsildar,
Madurai South Taluk,
Madurai District.

3.The Block Development Officer,
(Village Panchayat) Panchayat Union,
Thirupparankundram,
Madurai.

4.The President,
Nilaiyur I Bit Panchayat Board,
Thirupparankundram Panchayat Union,
Madurai.

5.G.Ramalingam

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records for pertaining to the impugned proceedings in Na.Ka.No.686/2012/Thi 1 dated 28.11.2013 issued by the respondent No.3 in respect of the petitioner's Annai Memorial Medical Trust in survey No.49/3B to an extent of 20 cents situated at No.49-3B Ayyanar Koil Street, Nilayur, Thiruparankundram, Madurai South Taluk, Madurai District.



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For Petitioner : Mr.P.V.Vetrivel
for M/s.Lajapathi Roy Associates

For Respondents : Mr.T.Amjad Khan – for R1 & R2

Government Advocate

Mr.PT.S.Narendra Vasan – for R5

No Appearance – for R3 & R4

W.P(MD)No.1487 of 2014:

Ex. Servicemen Colony Kudiyiruppu Welfare Association,
Nilaiyur,
Thiruparankundram,
Madurai – 5.

Through its President
G. Ramalingam

... Petitioner

Vs.

1.The District Collector
Madurai District.
Madurai.

2.The Social Welfare Officer,
Collectorate,
Madurai.



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3.The Tahsildar

Madurai South,

Madurai.

4.The Commissioner,

Panchayat Union,

Thirupparankundram,

Tirunagar,

Madurai.

5.The Inspector of Police

Thirunagar Police Station,

Tirunagar,

Madurai - 6.

6.Annai Memorial Medical Trust,

Rep. by its Chairman,

Mrs.J.Latha,

Nilayur Ist Bit,

Thiruparakundram,

Madurai South Taluk,

Madurai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents No.1 and 3 to remove the encroachment made by the sixth respondent in



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the Plot Nos.40 to 48 allotted to the members of Petitioner Association
in S.No.49/8 Nilaiyur I Bit, Tirupparankundram, Madurai .

For Petitioner : Mr.PT.S.Narendra Vasan

For Respondents : Mr.T.Amjad Khan – for R1 to R3

Government Advocate

Mr.P.V.Vetrivel – for R6

for M/s.Lajapathi Roy Associates

No Appearance – for R4 & R5

COMMON ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

Heard Mr.P.V.Vetrivel, learned counsel for the petitioner in W.P(MD)No.20771 of 2013 and sixth respondent in W.P.(MD)No.1487 of 2014 Mr.PT.S.Narendra Vasan, learned counsel for the petitioner in W.P.(MD)No.1487 of 2014 and fifth respondent in W.P(MD)No.20771 of 2013 and Mr.T.Amjad Khan, learned Government Advocate appearing for the official respondents.



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2. W.P(MD)No.1487 of 2014 is filed seeking directions for removal of the encroachment made by the sixth respondent therein in plot Nos.42 to 48 allotted to the members of the petitioner Association in Survey No.49/8 Nilaiyur I Bit, Thirupparankundram. Whereas W.P(MD)No.20771 of 2013 is filed by the sixth respondent of W.P.(MD)No.1487 of 2014 challenging the communication between the Tahsildar and the Block Development Officer, dated 28.11.2013.

3. The learned counsel for the petitioner in W.P.(MD)No.20771 of 2013 submits that the petitioner therein is not concerned with Survey No.49/8. It is further submitted that with regard to Survey No.49/3B, patta is granted in favour of the petitioner of W.P.(MD)No.20771 of 2013. The order of injunction is also operating in favour of the petitioner in the civil suit.

4. We have considered the submissions canvassed by the learned counsel for the parties.

5. The injunction in a civil suit is not to be evicted without due process of law. *Inter alia*, if any encroachment exists, the authorities are entitled to evict by following the procedure of law.



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6. There will be no impediment for the Government authorities to proceed to remove the encroachment if any, in Survey No.49/8 and proceed ahead with allotment of plots to the petitioner in W.P.(MD)No.1487 of 2014 as may be permissible under law.

7. As far as Survey No.49/3B is concerned, the petitioner in W.P.(MD)No.20771 of 2013 is challenging the internal communication. The same is not the order. In case, the State authorities find that encroachment exists in Survey No.49/3B, then, they are required to adhere to the provisions of Tamil Nadu Land Encroachment Act, 1905 by issuing notice under Section 7 soliciting reply from the petitioners therein and if they are not convinced with the reply, then would proceed under Section 6 of the Tamil Nadu Land Encroachment Act, 1905. The order under Section 6 is also appealable under Section 10 of the Tamil Nadu Land Encroachment Act, 1905.

8. As observed above, so far as Survey No.49/8 is concerned, the authorities may directly proceed ahead to remove the encroachment, if any and to allot the plots, in case the members of the petitioner association are entitled for the same.



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9. So far as Survey No.49/3B is concerned, the respondents are permitted to resort to the provisions of law by issuing notice under Section 7 of the Land Encroachment Act, 1905. If such notice is issued, the petitioner in W.P.(MD)No.20771 of 2013 may file reply along with the all the documents relied by, which shall be considered by the concerned authorities before proceeding under Section 6 of the Tamil Nadu Land Encroachment Act, 1905.

10. With these observations and directions, both the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[S.V.G., C.J.]

[K.K.R.K, J.]

28.11.2023

Index : Yes / No
Neutral Citation : Yes / No

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To

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Madurai District.
- 2.The Tahsildar,
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Madurai District.
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THE HONOURABLE CHIEF JUSTICE
and
K.K. RAMAKRISHNAN, J.

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