



W.P(MD)No.4854 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.4854 of 2021
and
W.M.P(MD)No.3947 of 2021**

Paisudeen

... Petitioner

VS.

- 1.The Block Development Officer,
Panchayat Union Office,
Manachanallur,
Trichy District.
- 2.The President,
Pitchandar Kovil Village Panchayat,
Manachanallur Taluk,
Trichy District.
- 3.The Assistant Executive Engineer,
State Highways Department,
Trichy District.

... Respondents

(R – 3 is suo motu impleaded vide order
dated 20.01.2023 in W.P(MD)No.4854 of 2021)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India
praying for issuance of a Writ of Certiorari, to call for the impugned notice

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WEB COPY issued by the second respondent dated 01.02.2021 and quash the same.

For Petitioner : Mr.S.Ramakrishnan
For R – 1 : Mr.P.T.Thiraviyam
Government Advocate
For R – 2 : Mr.A.Karthik

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The prayer in this Writ Petition is for issuance of a Writ of Certiorari, to quash for the impugned notice issued by the second respondent dated 01.02.2021.

2.The learned counsel appearing for the petitioner submitted that the second respondent has no jurisdiction to issue the present impugned notice, dated 01.02.2021 under Section 6 of the Tamil Nadu Land Encroachment Act, 1905. As per the Act, the Tahsildar is the competent authority to invoke the power under the act. Hence, the impugned order is liable to be set aside.



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3.Heard the learned counsel appearing on either side and perused the materials available on record.

4.From the perusal of the 'A' register, it is seen that the property comprised in Survey No.65/1A is classified as a 'State Highways Land'. Therefore, the President is not the competent authority to pass the impugned order, dated 01.02.2021 for removal of encroachment and we have no hesitation to quash the impugned notice, dated 01.02.2021 issued by the second respondent.

5.Accordingly, the impugned notice, dated 01.02.2021 issued by the second respondent is hereby quashed. Since the aforesaid property is classified as a 'State Highways Land', the Assistant Executive Engineer, State Highways Department, Trichy District is *suo motu* impleaded as a third respondent in the Writ Petition. Therefore, the Assistant Executive Engineer, State Highways Department, Trichy District is directed to pass appropriate orders on merits and in accordance with law. If there is any encroachment, after issuing notice and conducting survey in the presence of the petitioner and all other parties concerned, the authorities concerned shall take necessary action for removal of such encroachment, after



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affording sufficient opportunity of personal hearing to all the parties concerned and by following due process of law, within a period of twelve weeks from the date of receipt of a copy of this order.

6.With the above directions, the Writ Petition is allowed. No costs.
Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,J.] [R.V.,J.]
20.01.2023
(1/2)

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

- 1.The Block Development Officer,
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D.KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

ps

ORDER MADE IN
W.P(MD)No.4854 of 2021

DATED : 20.01.2023
(1/2)