



W.P.(MD)No.6450 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MRS. JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.6450 of 2023

and

W.M.P(MD)No.6100 of 2023

Selvakumar

: Petitioner

Vs.

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The District Revenue Officer,
Madurai District,
Madurai.
- 3.The Commissioner,
Madurai Corporation,
Madurai.
- 4.The Tahsildar,
Madurai West Taluk,
Madurai District.



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5. The Assistant Executive Engineer (Planning),
Zonal-III, Madurai Central,
Madurai Corporation,
Madurai.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus to call for the records relating to the impugned notice in Na.Ka.No.L1/012440/2022 dated 21.12.2022 passed by the 5th respondent and quash the same as illegal and consequently, direct the respondents not to interfere with the petitioner's peaceful possession and enjoyment in respect of a property comprised in S.No.87/1B total extent of 430.50 sq.meter, situate at 1st street, Ponmeni Pudur, Madurai Corporation, Ward No.62, Madurai.

For Petitioner : Mr.T.Palanisamy

For Respondents : Mr.V.Nirmalkumar
Govt. Advocate for R1, R2 & R4

Mr.S.Vinayak
Standing Counsel for R3 and R5



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ORDER

(Order of the Court was made by R.SUBRAMANIAN, J)

Challenge in this writ petition is to the notice-cum-eviction order issued by the fifth respondent requiring the petitioner to remove the encroachment made by him in T.S.No.40, Block No.19, Ward No.XXIII, Zonal-3, Madurai Corporation.

2.Mr.V.Nirmalkumar, learned Government Advocate takes notice for the respondents 1, 2 and 4. Mr.S.Vinayak, learned Standing Counsel takes notice for the respondents 3 and 5. By consent, this writ petition is taken up for final disposal at the admission stage itself.

3.Though notice has been issued under several provisions of the Madurai City Municipal Corporation Act, the only relevant provision is Section 258, which enables the Corporation to remove the encroachment over a public street or any public place control of which is vested with the Corporation. The said eviction procedure must comply with the



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requirements of the natural justice. The petitioner should be given an opportunity to reply or prove that he is not an encroacher.

4.In similar circumstances, this Court had treated such order passed by the Madurai Corporation as a show cause notice and required the petitioners to file their objections to enable the Corporation to consider the objections and pass reasoned orders. We think it will be appropriate for us to adopt the same procedure in the case on hand also. The impugned notice dated 21.12.2022 will be treated as a show cause notice and the petitioner will submit his explanation within a period of two weeks from today. On receipt of the explanation, the Commissioner, Madurai Corporation will consider the same and pass appropriate orders.

5.With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.] & [L.V.G., J.]
24.03.2023

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



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R.SUBRAMANIAN., J

AND

L.VICTORIA GOWRI.,J

skn

**W.P.(MD)No.6450 of 2023
and
W.M.P(MD)No.6100 of 2023**

24.03.2023