



WEB COPY

W.P.(MD) No.8965 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

**W.P.(MD) No.8965 of 2023
and
W.M.P.(MD) No.8139 of 2023**

K.Syed Abuthahir

... Petitioner

-VS-

- 1.The Principal Secretary to
Government of Tamil Nadu
Department of Municipal Administration
St George Fort, Secretariate
Chennai-600 009
- 2.The Director of Municipal Administration
No.75, Urban Administrative Building
M.R.C.Nagar, Annamalaipuram
Chennai-600 028
- 3.The Regional Director of
Municipal Administration
No.294, Melakkal Main Road
Kochadai, Madurai-625 016
- 4.The District Collector
Theni District



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5.The Commissioner
Municipal Office
Chinnamanur
Theni District

6.Thagaraj

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 5 not to evict the petitioner from his lawful occupation of 98 sq.fts. bearing Survey No.590/1A1A1, Door No.103B, in 2nd Street of Theradi, Ward No.11 of Chinnamanur, property tax No.121/009/00052 and E.B.No.541-002-637.

For Petitioner : Mr.M.Sheik Abdullah

For Respondents : Mr.S.P.Maharajan
Special Government Pleader for R1 to R4
Mr.Hema Karthikeyan for R5 & R6

ORDER

[Order of the Court was made by S.M.SUBRAMANIAM, J.]

The relief sought for in this writ petition is to direct the respondents 1 to 5 not to evict the petitioner from his lawful occupation of the property measuring, 98 sq.fts. bearing Survey No.590/1A1A1, Door No.103B, in 2nd Street of Theradi, Ward No.11 of Chinnamanur, property tax No. 121/009/00052 and E.B.No.541-002-637.



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2. Learned counsel for the fifth respondent made a submission that the encroachments were already removed by the authorities by following the procedures. However, after removal of encroachments, the petitioner has again put up some temporary sheds and affixed a notice stating that this writ petition is pending before this Court and no action is to be taken to remove the shed put up after evicting him.

3. The photographs produced by the learned counsel appearing for the fifth respondent would reveal that it is a street, which was encroached upon and the authorities had already removed the encroachment, however, the petitioner has put up a new shed and affixed a notice stating that this writ petition is pending before this Court and no step is to be taken to remove the same.

4. The act of the petitioner amounts to an offence under the Criminal Law. Once encroachments are removed by the competent authorities and any person claiming right has to approach the competent Civil Court of law to establish his civil rights, contrarily he cannot reoccupy the land forcibly by stating that a writ petition is pending.



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5. In view of the fact that the petitioner has put up a temporary shed after removal of the encroachments, he is not entitled for any relief from the hands of this Court. The respondents are directed to remove the temporary shed put up by the petitioner within a period of one week from today and protect the property free from encroachments for the benefit of the road users in that locality. In the event of any such encroachments in near future, criminal actions are to be initiated against the encroachers by registering a police complaint.

6. With the above observations, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[S.M.S., J.]

[V.L.N., J.]

24.11.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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