



W.P.(MD)No.8422 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.04.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.8422 of 2023
and
W.M.P.(MD)Nos.7747 & 7748 of 2023

1.Thangavel Udaiyar

2.Lakshmanan Udaiyar

... Petitioners

Vs.

1.The District Collector,
Office of the Collectorate,
Ramanathapuram.

2.The Tahsildar,
Taluk Office, Paramakudi,
Ramanathapuram District.

3.The Executive Engineer,
Public Works Department/WRO,
Keezh Vaigai Basin Sub Division,
Paramakudi Taluk,
Ramanathapuram District.

4.The Assistant Engineer,
Public Works Department/WRO,
Pasanapirivu-II,
Ilayangudi,



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Sivagangai District.

... Respondents

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Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the fourth respondent vide his proceedings in Letter No.08/2023 U.Se.Po.Para/dated 03.04.2023 and quash the same as illegal.

For Petitioners :Mr.D.Senthil

For Respondents :Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2. The writ petitioner and his brother had committed encroachment in Survey No.122 of Rathapuli Village in Paramakudi Taluk in Ramanathapuram District. One Krishnan filed W.P.(MD)No.13837 of 2017. This Court vide order dated 10.08.2017 directed the jurisdictional Tahsildar to conduct enquiry and cause removal of the encroachments, if any. It appears that survey was conducted and the authorities came to the conclusion that encroachments had been committed in Survey No.122. Since no consequential action was taken, one R.Sureshkanna filed W.P.(MD)No.21464 of 2019. The said writ petition was disposed of with a direction to conduct survey and removal of the



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encroachments. In the meanwhile, the authorities had issued Form III notice.

On receipt of the same, the petitioner and his brother filed O.S.No.40 of 2018 on the file of the Sub Court, Paramakudi. It was a suit for declaration and permanent injunction. The suit was decreed on 27.09.2021. We went through the description of the suit properties. It is seen that the suit schedule items are not comprised in Survey No.122. Therefore, obtaining decree in their favour will not enure to the benefit of the plaintiffs as against action for removal of encroachment. The petitioner and his brother have been unsuccessfully knocking the doors of this Court. When Form III notices were issued, it was put to challenge in W.P.(MD)No.1539 of 2020. It was dismissed on 27.01.2020. W.P.(MD)No.5466 of 2020 filed by the petitioner and his brother was also dismissed on 06.01.2023. It is seen that though the authorities identified three set of encroachments, two of them have already been removed by the petitioners on their own. However, the aerial encroachment is yet to be removed.

3. The learned counsel appearing for the petitioner states that by the end of May 2023, the remaining encroachment will also be removed on their own. We can understand the anxiety of the petitioners. If the respondents go ahead with the impugned operation, the structural stability of the house in



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which the petitioners are presently residing may be affected. We therefore direct the petitioners to remove the impugned encroachment on their own. If the petitioners fail to adhere to the undertaking now given before this Court, the respondents are directed to complete the remaining task of removal of all the encroachments.

4. With this concession to the petitioners and direction to the respondents, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [B.P., J.]
12.04.2023

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