



W.P.(MD) No.12139 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.05.2023

CORAM:

**THE HON'BLE MR.T.RAJA, THE ACTING CHIEF JUSTICE
and
THE HON'BLE Mrs.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) No.12139 of 2023
and WMP(MD) No.10393 of 2023**

N.S.Karthikeyan

... Petitioner

-VS-

1.The Divisional Engineer (C&M Highways)
Highways Department
Trichy.

2.The Assistant Divisional Engineer
Highways Department
Trichy.

3.The Assistant Engineer (C&M Highways)
Highways Department
West Division, Trichy 20

4.The Sub Inspector of Survey
Trichy City Municipal Corporation,
Trichy.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the impugned eviction notice passed by the 3rd respondent in proceedings Ka.No.Encroachment/2023/A2 dated 11.05.2023 which was served to the petitioner's office on 12.05.2023 and quash the same as illegal and consequently directing the respondents not to evict the petitioner except under due process of law.

For Petitioner : Mr.Jegadeesha Pandian

For Respondents : Mr.R.Baskaran for R4
for M/s.R.B.Law Associates
Mr.B.Saravanan for R1 to R3
Additional Government Pleader

ORDER

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

This writ petition has been filed challenging the notice issued by the 3rd respondent dated 11.05.2023.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents.



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3. By consent of both sides, this writ petition is taken up for final disposal at the stage of admission itself.

4. Learned counsel for the petitioner, assailing the impugned order contended that the third respondent Assistant Engineer (C&M Highways), Trichy, without even issuing notice and without following the procedure has proceeded to state in the impugned order that the entire area of the petitioner's property is in encroachment and therefore, the same shall be removed.

5. Notice issued by the third respondent also states that he has sought for protection from various authorities to remove the alleged encroachment in the disputed area on 17.05.2023. When the petitioner is a pattadar and patta has also been issued in his name, removal of entire area is unacceptable.

6. Learned counsel for the respondents drew our attention to the earlier order dated 23.01.2023 of this Court in W.P.(MD) Nos.28797 to 28799 of 2022 and submitted that in Paragraph No.3 of the order, this Court has already recorded



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that the extent of encroachment made by the petitioners therein were noted as 0.0055.0, 0.0024.0 and 0.0026.0 sq. mtrs respectively in the aforesaid survey number. Therefore, so far as the petitioner is concerned, only 0.0026.0 sq. mtr. will have to be removed. Therefore, the apprehension of the petitioner is hereby resolved, since the respondents in the impugned order, though mentioned an extent, this Court, in its order dated 23.01.2023 in the writ petitions (supra), has mentioned that only 0.0026.0 sq.mtr. alone will be removed, a direction is issued to the 3rd respondent to remove only the extent in question, ie., 0.0026.0 sq. mtr., as mentioned in the earlier order of this Court.

7. The writ petition is disposed of with the above direction. No costs. consequently connected Miscellaneous Petition is closed.

NCC : Yes / No
RR

[T.R., A.C.J.] [L.V.G, J.]
17.05.2023



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THE HON'BLE THE ACTING CHIEF JUSTICE
and
L.VICTORIA GOWRI, J.

RR

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