



W.P.(MD) No.12667 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.06.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD) No.12667 of 2023

D.Sivaperumal

... Petitioner

-VS-

1. Assistant Director of Survey and Land Records,
District Land Survey Office,
Thoothukudi District.
2. The Commissioner,
City Municipal Corporation,
Thoothukudi District.
3. The Executive Engineer,
City Municipal Corporation,
Thoothukudi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1st Respondent to rectify the mistake in the Block Map by considering the petitioner's representation dated on 30.12.2021 and direct 2nd and 3rd respondents to stay the proceeding till the Block Map is rectified



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WEB.COM by the 1st Respondent.

For Petitioner : Mr.P.James Victor Rajkumar

For Respondents : Mr.A.Baskaran
Additional Government Pleader for R1
Mr.N.Anandakumar
Standing Counsel for R2 and R3

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

Mr.A.Baskaran, learned Additional Government Pleader, takes notice for the first respondent and Mr.N.Anandakumar, learned Standing Counsel, takes notice for the respondents 2 and 3.

2. With the consent of both sides, the writ petition is taken up for final hearing at the admission stage itself.

3. It is seen from the records that there is a dispute regarding the measurements and the lie of the road in question. Though the proceedings are pending before the first respondent regarding the same, the respondents 2 and 3



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have gone ahead to issue a notice of eviction to the petitioner and also demolished the compound wall of the petitioner.

4. A perusal of the report of the Special Tahsildar, Town Survey, dated 01.04.2022 shows that there is a mistake in the measurements and at least one metre of land belonging to the petitioner has been shown as portion of the road. On the basis of this recommendation, the first respondent has sought for certain clarifications from the Special Tahsildar on 06.05.2022. It is not known as to whether those clarifications were issued or not. In the interregnum, a third party filed the writ petition before this Court and without notice to the petitioner, a mandamus is issued directing the authorities to remove the encroachment in the place in question after affording sufficient opportunity to all the parties concerned and following due process of law within twelve weeks from the date of receipt of that order. It is this order which is now used to justify the unjust action on the part of the Municipal Corporation.

5. Hence, the writ petition is allowed. The petitioner is permitted to raise the new compound wall in place where it was situated. The respondents 2



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and 3 shall not take any action till such time the dispute relating to measurement is permanently resolved by the survey authorities. No costs.

[R.S.M., J.]

[L.V.G., J.]

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NCC : No
Index : No
Internet : Yes
PKN

To:

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