



W.P.(MD) No.15636 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.(MD) No.15636 of 2023

Karuppaiah

... Petitioner

-vs-

- 1.The District Collector
Madurai District
- 2.The Assistant Director of Panchayat
District Collector Office
Madurai
- 3.The Block Development Officer
Melur Panchayat Union
Melur
- 4.Tahsildar
Melur, Madurai District
- 5.The President
Poonjuthi Panchayat
Melur Taluk
Madurai District
- 6.Munisamy



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7.Rajendra Prabhu

8.The Chairman

Tamil Nadu Generation and
Distribution Corporation Ltd.,

144 Anna Salai

Chennai-600 002

... Respondents

[R8 is *suo motu* impleaded by this
order of this Court today]

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 5 to remove the street encroachment made by the respondents 6 and 7 in S.F.No.286/13 in Poonjuthi Gram Panchayat, South Street, Main Road, Melur Circle, Madurai District, by considering the petitioner's representation dated 02.12.2022.

For Petitioner : Ms.M.Rajeswari

For Respondents : Mr.P.Thilakkumar
Government Pleader for R1 to R4

ORDER

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

Mr.P.Thilakkumar, learned Government Pleader, takes notice for the respondents 1 to 4.



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2. Since we are not passing any adverse orders against the respondents 5 to 7, notice to them is dispensed with.

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

4. Prayer in this writ petition is to direct the respondents 1 to 5 to remove the encroachments made by the respondents 6 and 7 in S.F.No. 286/13 in Poonjuthi Gram Panchayat, South Street, Main Road, Melur Circle, Madurai District, by considering the petitioner's representation dated 02.12.2022.

5. Since the petitioner has come forward for disposing of his representation, dated 02.12.2022, the authorities concerned shall cause notice to the private respondents and after affording due opportunity to the petitioner as well as the private respondents, conduct a spot inspection, take photographs and videograph of the same and pass appropriate orders, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.



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6. The Authorities concerned can also utilize the advanced technology of drone survey in the presence of the respective parties in order to ascertain the exact portion of encroachment. It is needless to mention that if any encroachment is found to be made, the electricity connection with respect to the encroachment shall have to be disconnected and the eighth respondent shall issue suitable direction to the concerned Assistant Engineer to that effect, in the light of the Judgment of the Division Bench in the case of **"P.Selvarajan Vs. The Commissioner of Municipal Administration, Chennai and others" (W.P.No. 21639 of 2017), decided on 13.02.2018**, wherein the Division Bench observed as follows, in consonance with the order of the Supreme Court dated 05.01.2018 passed in a Petition for Special Leave to Appeal (C) No.33863 of 2017:

"3. Learned counsel appearing for the fourth respondent submitted that the fourth respondent has made an application for regularisation and that during the pendency of the proceedings, this Court, by order dated 11.09.2017, directed disconnection of electricity in respect of basement, second and third floors of the fourth respondent's premises, against which, the matter was taken up to the Supreme Court. The Supreme Court, in Petition for Special Leave to Appeal (C).No.26509 of 2017, by order dated 13.10.2017, did not interfere with the said order of this Court



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dated 11.09.2017, and permitted the fourth respondent herein to move the High Court. During the pendency of this Writ Petition, the fourth respondent herein has filed W.M.P.No.30495 of 2017 seeking direction to the TANGEDCO to restore the electricity connection to the building of the fourth respondent. **This Court, by order dated 07.11.2017, rejected the restoration of electricity supply. Thereafter, once again the matter was taken up to the Supreme Court by the fourth respondent, and the Supreme Court, by order dated 05.01.2018 in Petition for Special Leave to Appeal (C) No.33863 of 2017, has dismissed the Special Leave Petition, by observing as follows:**

"Heard learned counsel for the petitioner and perused the impugned order dated 07.11.2017 passed in WMP.No. 30495/2017 passed by the Madras High Court.

We are not inclined to interfere in the impugned order and accordingly, the Special Leave Petition is dismissed.

However, we direct the authority concerned before whom the application for regularisation under the DTCP Building Regularisation Scheme 2017 is pending to decide the matter in accordance with law within two months.

Pending application stands disposed of."

7. It is made clear that if there is any encroachment made, no indulgence shall be shown. The officials shall follow the dictums of this



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WEB COPY Court (S.K.Kaul,C.J., and R.Mahadevan,J.) in Contempt Petition No.1769 of 2015 and Contempt Petition No.2166 of 2015 (Suo motu) and in W.P. No. 28143 of 2021 dated 27.01.2022 (S.Vaidyanathan,J and D. Bharatha Chakravarthy,J.) in its letter and spirit. If the officials fail to remove the encroachment, disciplinary action shall be initiated and punishment for major misconduct shall be entered in the service records that will deprive them of further chances of promotion.

8. We make it clear that we have not rendered any finding on the merits of the plea made by the petitioner and it is for the authority concerned to consider the petitioner's representation.

9. With the above direction, this writ petition is disposed of. No costs.

[S.V.N., J.]

[D.B.C., J.]

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

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