



W.P.(MD) No.14872 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2023

CORAM:

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN**

W.P.(MD) No.14872 of 2023

T.Mahesh

... Petitioner

-VS-

1. The Executive Officer,
Achanputhur Town Panchayat,
Achanputhur,
Kadayanallur Taluk, Tenkasi District.

2. G.Kuttidurai

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the 1st respondent to remove the illegal and unapproved construction of building made by the 2nd respondent in Survey No. 515/9 Achanputhur Village, Kadayanallur Taluk, Tenkasi District, by considering the representation on 13.06.2023.



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For Petitioner : Ms.Chamundi Bose

For Respondents : Mr.P.Thilak Kumar
Government Pleader
for R1

ORDER

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

We have heard Ms.Chamundi Bose, learned counsel for the petitioner and Mr.P.Thilak Kumar, learned Government Pleader for the first respondent.

2. The encroachment is alleged to have been made by the respondent No.2 on the private property of the petitioner.

3. Learned counsel for the petitioner submits that the Sub Registrar has found the document of respondent No.2 to be fraudulent and has cancelled the same. The respondent No.2 has no authority, still is carrying out illegal construction on the property of the petitioner. The petitioner approached the authority but no cognisance had been taken by the authority. In case, the encroachment is being made on the private property, then the



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provisions of the Tamil Nadu Land Encroachment Act, 1905 do not apply. The petitioner has a remedy available before the civil Court to seek necessary orders. In case of measurement/survey, if the petitioner makes an application for carrying out the measurement of the property, naturally, the respondent authority is bound to measure the property in accordance with the Rules.

4. With liberty to the petitioner to avail the alternative remedy available, we dispose of the writ petition. All contentions raised by the petitioner are kept open. No costs.

[S.V.G., .C.J.]

[R.S.M., J.]

23.06.2023

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

PKN



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THE HONOURABLE CHIEF JUSTICE
and
R.SUBRAMANIAN, J.

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