



W.P(MD)No.16170 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.07.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE D.BHARTHA CHAKRAVARTHY**

**W.P(MD)No.16170 of 2023
and
W.M.P(MD)No.13572 of 2023**

C.Nagarajan

... Petitioner

Vs.

- 1.The District Collector,
Dindigul District.
- 2.The Divisional Engineer,
Rural Road,
Highway Department,
Batlagundu Division,
Dindigul.
- 3.The Block Development Officer,
Batlagundu,
Dindigul District.
- 4.The Tahsildar,
Nilakottai Taluk,
Dindigul District.
- 5.The Kombaipatti Panchayat,
Rep. by its President,
Vattalkundu Union,
Dindigul District.

... Respondents



W.P(MD)No.16170 of 2023

(R-5 is *suo motu* impleaded as per order
of this Court dated 05.07.2023 by SVNJ & DBCJ)

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondent No.1 to forbear the respondent No.2 from laying any road in the petitioner's property comprised in Patta No.387 at S.No.722/24, Kombaipatti, Nilakottai Taluk, Dindigul District and consequently, direct the respondents to restore the demolished portion of the petitioner's house by considering the petitioner's representation, dated 26.06.2023 within a stipulated time.

For Petitioner	:Mr.K.Dinesh
For R-1, R-2 & R-4	:Mr.M.Lingadurai, Special Government Pleader
For R-3	:Mr.D.Sachikumar, Additional Government Pleader
For R-5	:Mr.Mohammed Athiff

ORDER

(Order of the Court was made by S.VAIDYANATHAN, J.)

The petitioner has come forward with this writ petition seeking for issuance of a Writ of Mandamus directing the first respondent to forbear the second respondent from laying any road in the petitioner's property comprised in Patta No.387 at S.No.722/24, Kombaipatti, Nilakottai Taluk, Dindigul District and consequently, direct the respondents to restore the demolished portion of the petitioner's house by considering the petitioner's representation, dated 26.06.2023, within a stipulated time.



W.P(MD)No.16170 of 2023

WEB COPY

2. Heard the learned counsel appearing on either side.

3. The learned counsel for the petitioner would submit that the building of the petitioner in a patta land has been demolished. He would further submit that in case of any encroachment, after conduct of survey, the building can be demolished. However, in this case, no survey has been conducted.

4. This has been refuted by the respondents. Mr.Mohammed Athiff, learned counsel representing the panchayat would submit that not even an inch in the building in a patta land has been demolished. He would further submit that relief is sought for against the panchayat, however, the panchayat is not made as a party to this writ petition at all.

5. We make it clear that we would have dismissed the writ petition on the ground of non-joinder of necessary party as the panchayat is laying the road. However, we do not want to reject the writ petition. As the learned counsel for the panchayat is appearing, we *suo motu* impleaded the panchayat as a party to this writ petition.



W.P(MD)No.16170 of 2023

6. We expect a survey to be conducted apart from taking photographs and video in the presence of parties. If required, police assistance can also be taken.

If encroachment is found, no indulgence shall be shown to the encroachers.

The dictum of the Hon'ble Apex Court as followed by this Court in W.P(MD)No.15636 of 2023, dated 03.07.2023, needs to be adhered to.

Relevant portion of the said order reads as follows:

“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 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.”

7. 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



W.P(MD)No.16170 of 2023

case.

WEB COPY

8. We make it clear that if any encroachment is found, apart from the costs for the demolition of the building, the petitioner shall pay costs of Rs.50,000/-(Rupees Fifty Thousand Only) to the Legal Services Authority, Madurai Bench of Madras High Court, Madurai.

9. With the above direction, this writ petition is disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

[S.V.N.,J.] [D.B.C.,J.]
05.07.2023

Index:Yes/No
NCC:Yes/No

PM

To:

- 1.The District Collector, Dindigul District.
- 2.The Divisional Engineer,
Rural Road, Highway Department,
Batlagundu Division, Dindigul.
- 3.The Block Development Officer,
Batlagundu, Dindigul District.



W.P(MD)No.16170 of 2023

4.The Tahsildar,
Nilakottai Taluk,
Dindigul District.

S.VAIDYANATHAN, J.

AND

D.BHARATHA CHAKRAVARTHY, J.

PM

ORDER MADE IN

W.P(MD)No.16170 of 2023



WEB COPY



W.P(MD)No.16170 of 2023

05.07.2023