



W.P.(MD) No.16257 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.07.2023

CORAM:

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

W.P.(MD) No.16257 of 2023

A.Gurusamy

... Petitioner

-vs-

1.The District Collector,
Tenkasi District,
Tenkasi.

2.The Tahsildar,
Sankarankovil Taluk,
Tenkasi District.

3.The Block Development Officer,
Sankarankovil Panchayat Union,
Sankarankovil,
Tenkasi District.

4.The President,
Ramanathapuram Panchayat,
Sankarankovil Taluk,
Tenkasi District.

5.Aruna Devi

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1 to 4 respondents to remove the encroachment made by the 5th respondent in the public street in S.No. 1195/24, South Street, Ramanathapuram, South Sankarankovil Village, Sankarankovil Taluk, Tenkasi District.

For Petitioner : Mr.T.Selvan

For Respondents : Mr.P.Thilak Kumar
Government Pleader for R1 & R2
Mr.J.K.Jeyaseelan
Government Advocate for R3 & R4

ORDER

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

Mr.P.Thilak Kumar, learned Government Pleader, takes notice for the respondents 1 and 2 and Mr.J.K.Jeyaseelan, learned Government Advocate, takes notice for the respondents 3 and 4.

2. Since we are not passing any adverse orders against the 5th respondent, notice to her is dispensed with.



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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 4 to remove the encroachment made by the 5th respondent in the public street in S.No.1195/24, South Street, Ramanathapuram, South Sankarankovil Village, Sankarankovil Taluk, Tenkasi District.

5. Learned Government Advocate appearing for the respondents 3 and 4 would submit that approximately 23 square meters of the public street has been encroached and the same will be removed by following due process of law.

6. In view of the submissions made by the learned Government Advocate appearing for the respondents 3 and 4, the authorities concerned shall cause notice to the 5th respondent and afford due opportunity to the petitioner as well as the 5th respondent, conduct a spot inspection, take photographs and videograph of the same. 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.



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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.

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.]
06.07.2023

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



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