



W.P.(MD) No.16266 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.16266 of 2023

A.Ayyanar

... Petitioner

-vs-

- 1.The District Collector,
Theni District,
Theni.
- 2.The Revenue Divisional Officer,
Revenue Division Office,
Uthamapalayam,
Theni District.
- 3.The Thasildar,
Uthamapalayam Taluk,
Theni District.
- 4.The Block Development Officer,
Chinnamanur,
Theni District.
- 5.Ayyanasamy
- 6.Dharmar



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7.Arivalagan

8.Karuppaiah

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 3rd and 4th respondents to conduct spot inspection and remove the encroachment done by the respondents 5 to 8 in Survey Nos.343 to 363 on the common pathway as per the memo of the 2nd respondent in O.Mu.5906/2022/A6 dated 12.11.2022.

For Petitioner : Mr.K.Sathish Kumar

For Respondents : Mr.T.Villavankothai
Additional Government Pleader for R1 to R3
Mr.M.Lingadurai
Special Government Pleader for R4

ORDER

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

Mr.T.Villavankothai, learned Additional Government Pleader, takes notice for the respondents 1 to 3 and Mr.M.Lingadurai, learned Special Government Pleader, takes notice for the 4th respondent.



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2. Since we are not passing any adverse orders against the private respondents, 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 the 3rd and 4th respondents to conduct spot inspection and remove the encroachment done by the respondents 5 to 8 in Survey Nos.343 to 363 on the common pathway as per the memo of the 2nd respondent in O.Mu.5906/2022/A6 dated 12.11.2022.

5. Learned Special Government Pleader appearing for the 4th respondent would submit that there are encroachments in the common pathway and the same will be removed by following due process of law.

6. In view of the submissions made by the learned Special Government Pleader appearing for the 4th respondent, the authorities concerned shall cause notice to the private respondents and afford due opportunity to the petitioner as well as the private respondents, conduct a



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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.

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.



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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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