



W.P.(MD) No.16290 of 2023

WEB COPY 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.BHARATHA CHAKRAVARTHY**

W.P.(MD) No.16290 of 2023

and

W.M.P.(MD) No.13642 of 2023

B.K.Priyadarshini

... Petitioner

-VS-

- 1.The Revenue Divisional Officer
Madurai District
- 2.The Tahsildar
Madurai West Taluk
Madurai District
- 3.The Block Development Officer
(Village Panchayats)
Thirupparankundram Panchayat Union
Madurai District
- 4.The President
Achampathu Village Panchayat
Madurai District
- 5.The Inspector of Police
Nagamalai Pudukottai Police Station
Madurai District

6.M.Krishnan

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned notice dated 28.06.2023 in Na.Ka.No.4349/2022/E and the annexed impugned notice dated 28.06.2023 under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 issued by the second respondent and quash the same and consequentially forbearing the respondents 1 to 5 from interfering in the peaceful possession and enjoyment of the subject properties in Survey Nos.28/4A2 and 26/2A1B, Achampathu Village, Madurai West Taluk, Madurai District.

For Petitioner : Mr.J.Barathan

For Respondents : Mr.T.Villavankothai
Additional Government Pleader for R1 & R2
Mr.J.Ashok
Additional Government Pleader for R3 & R4

ORDER

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

Mr.T.Villavankothai, learned Additional Government Pleader, takes notice for the respondents and Mr.J.Ashok, learned Additional Government Pleader, takes notice for the respondents 3 & 4.



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2. Since we are not passing any adverse orders, notice to the other respondents 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. The proceedings dated 28.06.2023, directing removal of encroachment made by the petitioner in a street and Section-7 notice, dated 28.06.2023, both issued by the Tahsildar, Madurai West Taluk, are under challenge in this writ petition.

5. According to the petitioner, his mother-in-law purchased 60 Cents of land in Survey No.28/4 of Achampathu Village and there is no encroachment at all. A third party filed a writ petition in W.P.(MD) No.22528 of 2022, wherein this Court by order dated 26.09.2022 directed removal of encroachments. Since the said order has not been complied with by the official respondents, a contempt petition has been filed.



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6. It is represented by the learned counsel for the petitioner that after issuance of notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, on 28.06.2023, a memorandum has been issued on the very same date directing the petitioner to remove the encroachment, within seven days, failing which the same would be removed by the Government.

7. Since it is only a Section-7 notice, we are of the view that the petitioner will have to give his reply to the said notice and only after passing of orders under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, further proceedings can be done by the authorities concerned.

8. Though it has been pointed out by the petitioner that the compound wall, which is alleged to have been constructed in the street and sought to be removed, is well within the patta land, this Court is not inclined to go into those issues, as the present writ petition has been filed only against the show cause notice.



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9. We expect the official respondents to conduct a survey and take a decision, after affording due opportunity of hearing to the parties, who are going to be affected, on merits and in accordance with law and communicate the same to the parties concerned and such exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

10. With the above directions, 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

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

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