



W.P.(MD).No.19295 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10.10.2023

CORAM

**THE HON'BLE MR JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR JUSTICE V.LAKSHMINARAYANAN**

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A.P.Arjunan

.. Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Tahsildar,
Rajapalayam Taluk,
Rajapalayam,
Virudhunagar District.

3.The Municipal Commissioner,
Rajapalayam Municipality,
Rajapalayam,
Virudhunagar District.

4.Thangaraj

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, directing the Respondent No.3 to implement the order of the Respondent No.2 dated 19.08.2021 in Na.Ka.A6/6764/2020



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and remove the encroachments caused by the Respondent No.4 and others in Town Survey No.186, Ward E, Block No.7, Singarajakottai Andathamman Kovil Street, Pudhupalayam Village, Rajapalayam Town within a time frame as may be prescribed by this Court.

For Petitioner : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates
For R-1 & R-2 : Mr.T.Amjad Khan
Government Advocate
For R-3 : Mr.N.Dilip Kumar
For R-4 : Mr.R.J.Karthick

ORDER

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

The *lis* on hand has been instituted to direct the third respondent to implement the order of the second respondent dated 19.08.2021 and remove the encroachments caused by the fourth respondent and others in Town Survey No.186, Ward E, Block No.7, Singarajakottai Andathamman Kovil Street, Pudhupalayam Village, Rajapalayam Town.

2. The petitioner states that the entire land in Town Survey No.186, Ward E, Block No.7, Singarajakottai Andathamman Kovil Street,



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Pudhupalayam Village, Rajapalayam Town, is a Government poromboke classified as “street”. On the southern side of the street, the petitioner, Mr.A.P.Arjunan, owns two plots in Door Nos.7 and 7A, where, two residential houses are constructed. The fourth respondent, who is the owner of the adjacent plot in Door Nos.7B and 7C, has put up two houses by encroaching upon the street to an extent of 0.1695.5 sq.mts and blocking the street, due to which, the people of that locality are unable to have ingress and egress to their residential plots. Complaints were made and the official respondents conducted survey.

3. The learned Government Advocate appearing for the respondents 1 and 2 made a submission that encroachments are identified in respect of Town Survey No.186. The said survey number is classified as “street” and therefore, the encroachments are to be removed.

4. It is brought to our notice that orders were passed on earlier occasion to remove the encroachments and Writ Petitions were filed. This Court passed an order directing the authorities to issue show cause notice



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and evict the encroachers by following the procedures. However, the authorities, without application of mind, again passed final orders without issuing any show cause notice to the encroachers and thereby violated the procedures as contemplated under the statutes. The non-application of mind of the authorities are to be viewed seriously. This Court has to draw an inference that even after the directions issued by this Court, the authorities had not followed the procedure and again violated the provisions of the Act in order to remove the encroachments. Thus, the authorities, who committed such negligence, lapses or dereliction of duty are to be identified and suitable actions are to be initiated by the first respondent/District Collector.

5. As far as the removal of encroachments is concerned, Town Survey No.186 has been classified as “street” and the encroachments made are to be removed for the benefit of the people of that locality and to have ingress and egress to reach their respective residential plots.



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6. Since survey has already been conducted and the learned Government Advocate made a submission that actions are initiated, the respondents 1 to 3 are directed to confirm the extent of encroachments made by conducting a fresh survey and thereafter, issue a show cause notice to the encroachers by following the procedures and provide opportunity to the encroachers to submit their objections/defence statements, if any and thereafter, pass final orders and remove the encroachments for the purpose of usage of road by the public at large. The said exercise is directed to be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

7. With the above directions, the Writ Petition stands disposed of. There shall be no order as to costs.

(S.M.S.,J.) (V.L.N.,J.)
10.10.2023

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