



W.P.(MD)No.18631 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2023

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.(MD)No.18631 of 2023

and

W.M.P(MD)No.15474 of 2023

R.S.Uthandaraman

... Petitioner

Vs.

1.The Commissioner,
Madurai Corporation,
Anna Maligai,
Madurai.

2.The Assistant Commissioner,
Madurai Corporation, (Region – 1)
Anaiyur,
Madurai.

3.The Executive Engineer, (Planning),
Madurai Corporation, (Region – 1),
Anaiyur,
Madurai.

4.N.Chandrika

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the second respondent's proceedings in டி2/007359/23, dated 17.07.2023 and quash the same and consequently direct the second respondent to consider the petitioner's representation dated 21.07.2023.



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For Petitioner :Mr.P.Muthusamy
For R-1 to R-3 :Mr.K.Manisekaran,
Standing Counsel

ORDER

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

Heard Mr.P.Muthusamy, learned counsel for the petitioner and Mr.K.Manisekaran, learned Standing Counsel for respondents 1 to 3.

2. The petitioner has filed this writ petition challenging the notice issued by the second respondent, dated 17.07.2023, directing the petitioner to remove the encroachment in the open space which is in front of his plot to an extent of 1 mtr. X 9.9 mtr., by putting up steps like structure.

3. It is the case of the petitioner that he has purchased a house from the Tamil Nadu State Housing Board by getting proper allotment. He claims ownership to the portion which is in front of his house which is not part of a property conveyed to him by the Tamil Nadu Housing Board.



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4. Earlier, the petitioner filed a writ petition in W.P.(MD)No.9871 of 2009 challenging the similar order passed by the Executive Officer of Anaiyur Municipality, Madurai. This Court while disposing of the said writ petition has specifically held as follows:

“5. As already pointed out, the property that had been conveyed in favour of the petitioner is as given under the sale deed dated 18.09.2001 and the schedule to the sale deed shows that the pathway is given only as a boundary on the western side and not as a part of the property in question is not a subject matter of a sale under the sale deed for the petitioner to claim ownership over the property. We do not find any justification in the plea of the petitioner.”

5. Despite this Court has held that the petitioner has no right over the property in respect of which the eviction order was passed by the Municipality, the petitioner has once again challenged the eviction order suppressing the finding as against the petitioner in the previous writ petition.

6. In such circumstances, this Court is unable to find any merit in this writ petition. Hence, this Writ Petition is dismissed with costs of Rs.5,000/- (Rupees Five Thousand Only), payable by the petitioner within a period of two



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weeks from the date of receipt of a copy of this order to the credit of Account No.7567821433, Indian Bank, High Court Branch, Madurai in the name of Registrar Judicial, Madurai Bench of Madras High Court, Madurai, for donating law books to a Separate Section in the name of “Madurai Bench of Madras High Court” in Kalaingar Centenary Library, Madurai. Consequently, connected miscellaneous petition is closed.

Post the writ petition ‘for reporting compliance’ on 24.08.2023.

[S.S.S.R., J.] [D.B.C., J.]
02.08.2023

Index : Yes / No

NCC : Yes/No

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and

D.BHARATHA CHAKRAVARTHY, J.

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