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W.P.(MD) No.18879 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2023

CORAM:

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

**W.P.(MD) No.18879 of 2023
and
W.M.P.(MD) No.15683 of 2023**

K.Sivakumar

... Petitioner

-VS-

1.The Assistant Divisional Engineer
Construction & Maintenance
State Highways Department
Krishnarayapuram Camp
Mayanoor, Karur District

2.Muthusamy

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records relating to the impugned eviction order in Ku.No.741/2022/A1, dated 06.07.2023, issued by the first respondent and quash the same as illegal.



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W.P.(MD) No.18879 of 2023

For Petitioner : Mr.B.Prasanna Vinoth

For Respondents : Mr.T.Villavan Kothai
Additional Government Pleader for R1

ORDER

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

This writ petition is filed challenging the order dated 06.07.2023, passed by the first respondent directing removal of encroachment made by the petitioner in Survey No.495 of Mahadhanapuram (South) Village, Krishnarayapuram Taluk, Karur District, within seven days from the date of the said order.

2. It is the case of the petitioner that he has a residential house in Survey No.503 of Mahadhanapuram (South) Village, which is abutting State Highways in Survey No.495.

3. The first respondent proceeded to remove encroachments in Survey No.495. The petitioner has no grievance for removal of encroachment



W.P.(MD) No.18879 of 2023

WEB COPY

in Survey No.495. However, his grievance is that the first respondent has not surveyed and measured the property before taking action for removal of encroachment in terms of Section 28 of the Tamil Nadu Highways Act, 2001.

4. Learned Additional Government Pleader appearing for the first respondent, on instructions, submits that the impugned order is only for removal of encroachment in a public road in Survey No.495 and therefore, the petitioner is not aggrieved by the impugned order.

5. This Court finds that the apprehension of the petitioner appears to be misconceived, having regard to the facts admitted by him and the representations given by him in response to the show cause notice issued by the first respondent before passing the impugned order.

6. Be that as it may, since encroachment is alleged only in Survey No.495, which is a part of State Highways, the petitioner has no grievance for removal of encroachment in the said survey number.



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W.P.(MD) No.18879 of 2023

7. At this juncture, learned counsel for the petitioner states that the petitioner alone is victimized and even though there are several encroachments in the same survey number, the first respondent is targeting the petitioner alone.

8. This Court finds that the above submission of the learned counsel for the petitioner is quite contrary to what he has stated in the affidavit.

9. Hence, this writ petition is dismissed with a direction to the first respondent to ensure that the removal of encroachment is confined only in Survey No.495. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.]

[D.B.C., J.]

03.08.2023

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

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Page 4 of 6



W.P.(MD) No.18879 of 2023

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To:
The Assistant Divisional Engineer,
Construction & Maintenance,
State Highways Department,
Krishnarayapuram Camp,
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W.P.(MD) No.18879 of 2023

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