



W.P.(MD) No.19511 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.08.2023

CORAM:

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

**W.P.(MD) No.19511 of 2023
and
W.M.P.(MD) No.16140 of 2023**

Poonkodi

... Petitioner

-vs-

1.The Commissioner,
Annamaligai,
Madurai Corporation,
Madurai District.

2.The Assistant Commissioner,
Zone – III,
Madurai Corporation,
Madurai District.

3.Mohammed Hanifa

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records in removal of encroachment notice dated 31.07.2023 on the file of the second respondent herein the Assistant Commissioner, Zone-III, Madurai Corportion, in D.No.127, Ward No.5, Ward No.57, Plot No.72, T.S.No.115, Madurai Corporation and quash the same.



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For Petitioner : Mr.J.Gunaseelan Muthiah

For R-1 & R-2 : Mr.K.Manisekaran

WEB COPY

ORDER

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

Mr.K.Manisekaran, learned counsel takes notice for respondents 1 and 2.

2. In view of the nature of the order going to be passed, notice to the third respondent is dispensed with.

3. The petitioner has filed this writ petition challenging the notice purported to be one issued under Sections 236, 256, 257, 258, 472, 473 & 503 of the Madurai City Municipal Corporation Act, 1971, directing the petitioner to remove the alleged encroachment made in the public pathway in Town Survey No.115 of Madurai Corporation.

4. The case of the petitioner is that at the instance of the third respondent, who has also filed a suit in O.S.No.175 of 2021 on the file of the Principal District Munsif Court, Madurai, seeking for injunction as against the petitioner and others, the respondents have issued the impugned notice. In the affidavit filed in support of this writ petition, the petitioner has not



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stated about the title and ownership of the property in which the encroachment is said to have been made.

5. Be that as it may, the impugned notice does not speak about the show-cause notice issued to the petitioner before issuing the impugned notice. In such circumstances, the impugned notice issued by the second respondent, dated 31.07.2023, is set aside. However, the impugned notice shall be treated as a show-cause notice issued to the petitioner. Further, it is open to the petitioner to raise all her objections within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the second respondent shall consider the objections and pass appropriate orders as per the provisions of the Tamilnadu Urban Local Bodies Act, 1998 after hearing the petitioner as well as the third respondent in case it is necessary. The second respondent shall pass final orders within a period of four weeks from the date on which the petitioner files her objections.

6. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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

[D.B.C., J.]

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NCC : Yes / No
Index : Yes / No



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and
D.BHARATHA CHAKRAVARTHY, J.

pm

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