



W.P.(MD)No.21491 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :04.09.2023

CORAM:

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

and

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

W.P(MD)No.21491 of 2023

and

W.M.P(MD)No.17880 of 2023

Kalarani

... Petitioner

Vs.

1.The Thasildar,
Dindigul East Thasildar Office,
Dindigul District.

2.The Block Development Officer,
Sanarpatti Union,
Dindigul East Thasildar Office,
Dindigul District.

3.Thangaraj

4.Rajasekaran

5.Chellan

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the first respondent in Na.Ka.No.5854/2020/A5, dated 21.08.2023 and quash the same as illegal and consequently, direct the 1st and 2nd respondents to serve notice upon the entire encroachers and remove the encroachment and following the process of law by considering the petitioner's representation dated 26.08.2023.



W.P.(MD)No.21491 of 2023

For Petitioner :M/s.A.Arul Jenifer
For R-1 :Mr.M.Lingadurai,
Special Government Pleader
For R-2 :Mr.D.Sachikumar,
Additional Government Pleader

ORDER

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

Heard M/s.A.Arul Jenifer, learned counsel for the petitioner, Mr.M.Lingadurai, learned Special Government Pleader for the first respondent and Mr.D.Sachikumar, learned Additional Government Pleader for the second respondent.

2. The petitioner has filed this writ petition seeking for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the first respondent in Na.Ka.No.5854/2020/A5, dated 21.08.2023 and consequently, to direct the 1st and 2nd respondents to serve notice upon the entire encroachers and remove the encroachment by following the due process of law by considering the petitioner's representation, dated 26.08.2023.

3. It is the case of the petitioner that the petitioner has put up a construction in his own patta land and that, the official



W.P.(MD)No.21491 of 2023

respondents are attempting to remove the encroachments by assuming that the major portion of the encroachment made by the petitioner is in a public road. It is also her grievance that the official respondents had determined the rights of parties without even conducting a proper survey in the presence of the petitioner and other encroachers. Therefore, the petitioner has submitted a representation to the official respondents to follow the due process of law before initiating action for removal of encroachment.

4. When a dispute is in relation to title or enjoyment of the property, this Court in several cases, has directed the official respondents to remove the encroachment if any after conducting a survey in the presence of aggrieved persons. Though the petitioner has not produced before this Court, the earlier direction of this Court in W.P(MD)No.2552 of 2021, in the impugned order, the first respondent has referred to the order of this Court regarding the removal of encroachment. By the impugned proceedings, the Tahsildar concerned has requested to conduct a survey by the officials in the presence of the petitioner and other interested persons.



W.P.(MD)No.21491 of 2023

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5. In such circumstances, this Court is unable to find any merit in this writ petition. The attempt of the petitioner appears to stall the survey being conducted by the official respondents to conclude whether the petitioner and anyone is in encroachment of the State Highway or the public road or not.

6. In the said circumstances, the writ petition is devoid of merits. However, the respondents are directed to proceed further for removal of encroachment after following due process of law in tune with the earlier directions of this Court.

7. In the result, this writ petition is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]
04.09.2023

Index : Yes / No
NCC : Yes / No
pm



W.P.(MD)No.21491 of 2023

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Dindigul District.
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Sanarpatti Union,
Dindigul East Thasildar Office,
Dindigul District.



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W.P.(MD)No.21491 of 2023

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W.P(MD)No.21491 of 2023

04.09.2023