



W.P.(MD)No.21800 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: **03.10.2023**

CORAM

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**
AND
THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

W.P.(MD)No.21800 of 2023
and W.M.P.(MD) No.18185 and 18186 of 2023

Vembadi Muthu

...Petitioner

-Vs.-

- 1.The Commissioner,
Madurai Corporation,
Madurai.
- 2.The Assistant Commissioner,
Zone-4 (South),
Madurai Corporation,
Madurai.
- 3.The Assistant Engineer,
Public Works Department,
Madurai.
- 4.The District Collector,
Madurai District,
Madurai.
(R4 Suo Motu impleaded vide order
of this Court dated 03.10.2023)

...Respondents

PRAYER:- Writ Petition filed under Article 226 of Constitution of India,
praying for issuance of a Writ of Certiorari to call for the impugned



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notice of the 2nd respondent in Koppu.No.Z4D1/000157/23 dated 30.08.2023 and quash the same as illegal by considering the petitioner's representation dated 31.08.2023 within the time limit stipulated by this Court.

For Petitioner : Mr.M.Jagadesh Pandian

For Respondents : Mr.S.Vinak
Standing Counsel for R1 & R2

Mr.J.Amjadkhan
Government Advocate
for R3 & R4

ORDER

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

The writ on hand has been instituted, questioning the validity of the notice issued by the first respondent Madurai Corporation to remove the encroachment.

2. Learned counsel for the petitioner mainly contended that the notice impugned has been issued by an incompetant authority having no jurisdiction, thus it is to be set aside.



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3. Learned Government Advocate appearing for the third respondent submitted a copy of the sketch showing that the subject property is a water body and the authorities found encroachment in the said water body. It is found that the writ petitioner himself is an encroacher of the water body and when that being the factum the relief as such sought for cannot be considered.

4. With reference to the ground raised regarding jurisdiction, it is untenable since the third respondent Public Works Department is empowered to remove encroachment from the water body. However, we are inclined to implead the District Collector, Madurai District, Madurai, *suo motu* as 4th respondent for the purpose of completing the process of removal of encroachment from the water body and to protect the water resources as laid down by the Hon'ble Apex Court of India. Encroachment at water body at no circumstances be permitted and thus, we are inclined to direct the respondents, including the impleaded respondent District / Collector, Madurai District, to initiate all appropriate action and remove all the encroachments from the water bodies and protect the water resources in the manner contemplated under the statues and the Rules in force. The said exercise is directed to be



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completed within a period of four weeks from the date of receipt of a copy of this order.

5. Accordingly, the Writ Petition stands disposed of. No costs.

Consequently, connected Writ Miscellaneous Petitions are closed.

**[S.M.S.J.,] & [V.L.N.J.,]
03.10.2023**

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

SJ

To

1.The Assistant Engineer,
Public Works Department,
Madurai.

2.The District Collector,
Madurai District,
Madurai.



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S.M.SUBRAMANIAM, J.
AND
V. LAKSHMINARAYANAN, J.

SJ

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