



W.P.(MD)No.22299 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.22299 of 2023

and

W.M.P.(MD)Nos.18579 & 18580 of 2023

A.Aiyavu

... Petitioner

Vs.

1.The Commissioner,

Madurai Corporation, Madurai.

2.The Assistant Administrative Officer (Plan),

5th Zone, Madurai Coporation, Madurai.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notice issued by the 2nd respondent in E1/003341/2023, dated 01.09.2023 and quash the same and consequently, restraining the respondents from demolishing some portion of the petitioner's house and compound wall situated in a portion of Survey No.104/1B1, [P]/T.S.No.83, at Door No.139, Srinivasa Road, T.V.S.Nagar, Ward No.73, Madurai.

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For Petitioner : Mr.S.Sathyachidambaram

For Respondents : Mr.A.Sivabalan

ORDER

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

The notice issued to evict the encroachers by the Madurai Corporation in proceedings dated 01.09.2023 is sought to be quashed in the present Writ Petition.

2.The petitioner states that the Corporation authorities, without affording any opportunity to him, conducted a survey and issued the impugned notice to evict him from the premises, in which he is residing. Thus, the present Writ Petition is filed.

3.Earlier, we have directed the Corporation authorities to be present before this Court and submit a report, who in turn submitted a report to show that there are several road encroachments in that locality and actions are initiated to conduct survey and to evict the encroachers as per the layout plan. It is brought to our notice that a gift deed in consonance with the provisions of the Tamil Nadu Town and Country Planning Act, 1971 was executed in favour of Madurai



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Corporation on 22.02.1990 vide Document No.656/1990 and layout was approved pursuant to the execution of the gift deed in favour of the local authority.

Therefore, encroachments in road area would cause prejudice to the interest of other residents in the layout.

4.The learned counsel appearing on behalf of Madurai Corporation has made a submission that the petitioner is in ICU and therefore, his son, namely, Sivakarhikeyan will approach the authorities and co-operate for the purpose of completing the survey. Thus, the petitioner shall make arrangements to nominate his son to oversee the survey to be conducted by the competent authorities of Madurai Corporation.

5.The respondents / authorities of Madurai Corporation are directed to conduct a survey of the entire area, where encroachments are identified, on 20.10.2023 based on the gift deed executed on 22.02.1990 vide Document No.656/1990 and complete the survey. The son of the petitioner shall co-operate with the Corporation authorities to complete the survey. In the event of non-co-operation of the family of the petitioner, the respondents are at liberty to proceed with the survey and complete the same and initiate all further actions to remove



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the encroachments as per the road plan approved by the competent authorities.

The entire exercise is directed to be completed within a period of four weeks from the date of receipt of a copy of this order. It is made clear that the encroachments including the encroachment made by the petitioner are directed to be removed by following due procedures and after conducting survey.

6. With the above directions, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S., J.) & (V.L.N., J.)

13.10.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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