



WEB COPY

W.P.(MD) No.23501 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2023

CORAM:

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

**W.P.(MD) No.23501 of 2023
and
W.M.P.(MD) No.19703 of 2023**

R.Selvaraj

... Petitioner

-VS-

1.The Tahsildar
Manachanallur Taluk
Trichy District

2.The President
Ayyampalayam Panchayat
Manachanallur Panchayat Union
Trichy District

3.M.Mookan

... 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 order dated 04.09.2023, issued by the second respondent and quash the same as illegal.

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For Petitioner : Mr.B.Prasanna Vinoth

For Respondents : Mr.M.Lingadurai
Special Government Pleader for R1 & R2

ORDER

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

Mr.M.Lingadurai, learned Special Government Pleader, takes notice for the respondents 1 & 2.

2. Since we are not passing any adverse orders, notice to the third respondent is dispensed with.

3. With the consent of both sides, this writ petition is taken up for final hearing at the admission stage itself.

4. This writ petition is filed to call for the records relating to the impugned order dated 04.09.2023, passed by the second respondent and to quash the same as illegal.



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5. The petitioner states that he purchased an extent of 3 Cents of land in Survey No.499 of S.Ayyampalayam Village, Manachanallur Taluk, Trichy District, from one Alaguperumal, in the year 2002 and ever since the date of purchase, he is in possession and enjoyment of the said land. The petitioner appears to have put up a shed thereon and he is residing therein for several years. Though the petitioner states that he has applied for Patta with the first respondent, the said application is not considered.

6. The grievance of the petitioner is that at the instance of the third respondent, proceedings have been issued for removal of encroachment as if he is in encroachment of the property in Survey No.499. However, the impugned order reveals that no show cause notice was issued to the petitioner before issuing the same and it has also been issued by the Panchayat President. Even though the Executive Officer of the Local Body has power to initiate proceedings under Section 131 of the Tamil Nadu Panchayats Act, 1994, removal of encroachment is possible only with the cooperation of the revenue officials.



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7. From the impugned order, it is also seen that the alleged encroachment is in a pathway.

8. Learned counsel for the petitioner states that no survey was conducted even to identify whether the encroachment is in a public property.

9. In the said circumstances, this Court is inclined to pass the following orders:

- (i) The writ petition is allowed.
- (ii) The order, dated 04.09.2023, passed by the second respondent, is quashed.
- (iii) However, liberty is given to the Tahsildar / first respondent to conduct a survey in the subject land, after issuing notice to the petitioner and the Local Body to identify whether there is any encroachment in the pathway, which is vested in the Local Body.
- (iv) The report of survey shall also be served on the petitioner as well as the Local Body.



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- (v) If the survey reveals that the petitioner has made encroachment in the public pathway, proceedings shall be commenced by the Tahsildar / first respondent himself under the provisions of the Tamil Nadu Land Encroachment Act, 1905 as it is provided under the Tamil Nadu Panchayats Act, 1994, for removal of encroachments within a period of eight weeks from the date of drawal of survey report and further action shall be taken within a period of six weeks thereafter.
- (vi) No costs. Consequently, connected miscellaneous petition is closed.

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

[D.B.C., J.]

27.09.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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