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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.09.2023**

CORAM:

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

**W.P(MD)NO.23931 OF 2023
and
W.M.P(MD)No.20099 of 2023**

S.Senthoorapandi

:Petitioner

.VS.

- 1.The District Collector,
Thoothukudi District,
Thoothukudi.
- 2.The Assistant Director-Panchayats,
Office of the Assistant Director-Panchayats,
Tirunelveli.
- 3.The Tahsildar,
Taluk Office,
Thiruchendur Taluk,
Thoothukudi District.
- 4.The Executive Officer,
Udankudi Town Panchayat,
Thiruchendur Taluk,
Thoothukudi District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned communication in Na.Ka.No.30/2020/A1, dated 8.9.2023 issued by the fourth



respondent and to set aside the same and further to allow the Petitioner to enjoy the property without any interference.

For Petitioner	:Mr.V.Rajiv Rufus
For Respondents 1 and 3	:Mr.P.Thilak Kumar Govt.Pleader
For Respondents 2 and 4	:Mr.D.Sachikumar Addl.Govt.Pleader

O R D E R

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

This Writ Petition is filed seeking issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned communication in Na.Ka.No.30/2020/A1, dated 8.9.2023 issued by the fourth respondent and to set aside the same and further to allow the Petitioner to enjoy the property without any interference.

2.Mr.P.Thilak Kumar, learned Government Pleader takes notice for the respondents 1 and 3 and Mr.D.Sachikumar, learned Additional Government Pleader takes notice for the respondents 2 and 2. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.



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3.The order impugned in this Writ Petition is only a communication that was addressed to the Petitioner stating that steps will be taken to remove the encroachment by following due process of law, if he himself does not act upon the said communication.

4.The learned counsel for the Petitioner states that there is no encroachment by the Petitioner.

5.The Petitioner has not produced before this Court any title deeds in respect of his land. The Petitioner relies upon the sale deed in S.No.186/A. The Petitioner has some grievance about the survey conducted earlier before identifying the encroachment.

6.Therefore, we only direct the respondents to follow the procedure of law for eviction of encroachment, after conducting a survey of the subject land in the presence of the Petitioner. Though it is referred that a survey was conducted earlier in the presence of the Petitioner as per the impugned order, the respondents shall communicate the copy of the survey report, if not already served to the Petitioner, before proceeding further with the removal of



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encroachment. It is needless to state that before proceeding with eviction of encroachment, a show-cause notice under Section 128(2) of the Local Bodies Act shall be issued to the Petitioner. Thereafter, the respondents shall take further action for eviction, after holding an enquiry and in the manner known to law.

7. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

[S.S.S.R.,J.] [D.B.C,J.]
29.09.2023

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

vsn

To

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3. The Tahsildar,
Taluk Office,
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S.S.SUNDAR, J.

AND

D.BHARATHA CHAKRAVARTHY, J.

vsn

ORDER MADE IN

W.P(MD)NO.23931 OF 2023

and

W.M.P(MD)No.20099 of 2023

29.09.2023