



W.P(MD)Nos.27626 & 27627 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)Nos.27626 & 27627 of 2022
and
WMP(MD)Nos.21744 & 21746 of 2022

K.Vijayakumar
Mayilraj

... Petitioner in W.P.27626/2022
... Petitioner in W.P.27627/2022

vs.

1. The District Collector,
Madurai District.

2. The Divisional Engineer (H),
Highways Department,
Construction and Maintenance,
Madurai District.

3. The Assistant Divisional Engineer (H),
Highways Department,
Construction and Maintenance,
Madurai District.

... Respondents in both WPs

PRAYER in both WPs : Writ Petitions filed under Article 226 of
the Constitution of India, for issuance of a Writ of Certiorari, calling for

1/6



W.P(MD)Nos.27626 & 27627 of 2022

the records pertaining to the impugned order passed by the 3rd respondent in Ka.No.02/2022/E.Va.A/dated 30.11.2022 and Ka.No. 05/2022/E.Va.A/dated 30.11.2022 and quash the same.

For Petitioner(in both WPs) : Mr.P.T.Ramesh Raja
For Respondents(in both WPs): Mr.V.Nirmal Kumar
Government Advocate

COMMON ORDER

(Order of the Court was made by D.KRISHNAKUMAR, J.)

Challenging the eviction notices dated 30.11.2022, the petitioners have filed these writ petitions.

2. Learned counsel for the petitioners submitted that the petitioners in both the writ petitions purchased a small tiled house in T.S.Nos.2255 and 2256 to an extent of 483 sq ft and a land in T.S.No. 2256 to an extent of 148½ sq.ft respectively, of Thathaneri Village, Madurai North Taluk, Madurai, from their vendors namely, Theresammal and Krishnaveni respectively. According to the learned



W.P(MD)Nos.27626 & 27627 of 2022

WEB COPY

counsel, the aforesaid properties belonged to the petitioners.

However, the 3rd respondent issued a notice dated 01.11.2022 stating that there are encroachments by the petitioners near the Railway Bridge at Thathaneri and asked the petitioners to remove the same. According to the petitioners, in the said notice, the 3rd respondent has not even mentioned any survey number, extent of alleged encroachment and description of property. Pursuant to the said notice, the petitioners submitted their title documents and on receipt of the same, the 3rd respondent passed the present impugned notices, reiterating the same contents of the notice dated 01.11.2022 earlier issued to them and directed the petitioners to remove the alleged encroachment within a period of 3 days. Even in the impugned notices, the 3rd respondent has not even mentioned any survey number, extent of alleged encroachment and description of property. Hence, the learned counsel submitted that the impugned notices are liable to be quashed.



W.P(MD)Nos.27626 & 27627 of 2022

WEB COPY

3. Learned Government Advocate appearing for the respondents submitted that the respondents are proceeding to remove the encroachments only in respect of S.No.2258/Part. He further submitted that the petitioners have encroached upon S.No.2258/Part and claiming it to be their own lands.

4. In reply, learned counsel for the petitioners submitted that the petitioners may not have any objection for removal of encroachment in S.No.2258/Part, provided, the respondents conduct a survey of the lands in the said survey number in their presence and then proceed further by due process of law, for which, learned Government Advocate has agreed.

5. Recording the above submissions, the Writ Petitions are disposed of directing the respondents to survey the property in S.No. 2258/Part in the presence of the petitioners after giving due notice of intimation in advance and if the said survey reveals any



W.P(MD)Nos.27626 & 27627 of 2022

WEB COPY

encroachment by the petitioners, then it is open to the respondents to remove such encroachments by following due process of law. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K.,J.] & [R.V.,J.]
20.01.2023

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

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W.P(MD)Nos.27626 & 27627 of 2022

D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

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COMMON ORDER MADE IN
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DATED : 20.01.2023