



W.P.(MD)No.25927 of 2023 & CONT.P.(MD)No.2317 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**AND**

**THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.P.(MD)No.25927 of 2023

and

W.M.P.(MD)No.22279 of 2023

and

CONT.P.(MD)No.2317 of 2023

W.P.(MD)No.25927 of 2023

A.Kannuchamy

... Petitioner

Vs.

1.The Tahsildar,  
Taluk Office, Sivakasi Taluk,  
Virudhunagar District.

2.The Block Development Officer,  
Office of the Block Development Officer,  
Vembakottai Union, Sivakasi Taluk,  
Virudhunagar District.

3.The President,  
Office of the President,  
Thayilpatti, Sivakasi Taluk,  
Virudhunagar District.

...Respondents



W.P.(MD)No.25927 of 2023 & CONT.P.(MD)No.2317 of 2023

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the 2<sup>nd</sup> respondent herein vide Na.Ka.B4/120/2020, dated 10.10.2023 and quash the same as illegal and further, to direct the respondents 1 to 3 to conduct a detailed survey as per the proceedings of the 1<sup>st</sup> respondent in Na.Ka.A1/10011/2022, dated 31.07.2023.

For Petitioner : Mr.V.Meenakshi Sundaram,  
for Mr.S.Atham Ali

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

CONT.P.(MD)No.2317 of 2023

A.Palanichamy

... Petitioner

Vs.

Mr.A.Prince,  
The Block Development Officer,  
Vembakottai, Virudhunagar District.

...Respondent

**PRAYER:** Petition filed under Section 11 of Contempt of Courts Act, praying this Court to punish the contemnor for his willful disobedience of the order of this Court dated 20.10.2022 made in W.P.(MD)No.3827 of 2020.

For Petitioner : Mr.M.Solaisamy

For Respondent : Mr.M.Lingadurai,  
Special Government Pleader



W.P.(MD)No.25927 of 2023 & CONT.P.(MD)No.2317 of 2023

### COMMON ORDER

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

This Writ Petition has been filed challenging the order dated 10.10.2023 passed by the 2<sup>nd</sup> respondent.

2.It is not in dispute between the parties that the contempt petitioner has filed W.P.(MD)No.3827 of 2020, seeking a relief to remove the encroachment made by the writ petitioner and one K.Subburaj, wherein this Court passed final orders on 20.10.2022 as follows:-

*“5.Considering the limited scope of the prayer now sought for by the petitioner, without expressing any opinion on the merits of the claim made by the petitioner either in the representation or in the affidavit filed in support of the Writ Petition, this Writ Petition is disposed of with a direction to the fourth respondent to consider the representation of the petitioner dated 20.01.2020 and pass appropriate orders on merits and in accordance with law. If there is any encroachment as claimed by the petitioner, after issuing notice and conducting survey in the presence of the petitioner, respondents 5 and 6 and all other parties concerned, the fourth respondent is directed to take necessary action for removal of encroachments in the place in question, after affording sufficient opportunity to all the*



**W.P.(MD)No.25927 of 2023 & CONT.P.(MD)No.2317 of 2023**

*parties concerned and by following due process of law. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs.”*

3.The order of this Court reveals that the official respondents were directed to issue notice and conduct survey in the presence of the contempt petitioner and the respondents 5 and 6 therein and all other parties concerned. After conducting survey, if any encroachments are identified, then such encroachments are directed to be removed by the parties.

4.The learned Special Government Pleader appearing for the respondents 1 and 2 and the contemnor contended that survey was conducted pursuant to the order of this Court dated 20.10.2022 even before passing the order dated 10.10.2023 and encroachments were identified. Therefore, notice was issued to the writ petitioner. He has filed W.P.(MD)No.29139 of 2022 and this Court passed an order dated 23.12.2022, directing the respondents to conduct enquiry and initiate all appropriate actions.



W.P.(MD)No.25927 of 2023 & CONT.P.(MD)No.2317 of 2023

WEB COPY

5.The learned counsel appearing for the writ petitioner relying on the order dated 31.07.2023 passed by the Tahsildar, Sivakasi, has made a submission that no survey was conducted after the proceedings of the Tahsildar dated 31.07.2023. However, the Tahsildar, Sivakasi communicated a letter to the Block Development Officer, Vembakottai to remove the encroachments. Therefore, the Block Development Officer passed an order dated 10.10.2023, which is impugned in the present Writ Petition.

6.According to the learned Special Government Pleader, survey was conducted and the encroachments were identified on 10.01.2023. The parties are filing Writ Petition after Writ Petition at every stage to avoid removal of encroachments. Writ seeking a direction was filed or a notice issued to remove the encroachment is under challenge. Such approach at no circumstances be appreciated. The parties have to establish their right before the authorities competent by producing documents and evidences and thereafter, they may approach the competent civil Court of law, if they claim any title or otherwise.



W.P.(MD)No.25927 of 2023 & CONT.P.(MD)No.2317 of 2023

WEB COPY

7. However, in the present case, the learned Special Government Pleader has made a submission that survey was conducted on 10.01.2023 and the encroachments were identified and actions are taken by the authorities competent to remove the encroachment. Since the petitioner is claiming that no survey was conducted, the respondents 1 and 2 are directed to conduct a fresh survey of the subject property in the presence of the petitioner and other parties within a period of one week from the date of receipt of a copy of this order. In the event of any non-cooperation on the part of the writ petitioner or other parties, the respondents 1 and 2 are directed to complete the survey and identify the encroachments, if any and thereafter, remove the same.

8. It is made clear that all the encroachments in that location are directed to be removed and the public road is to be kept free from encroachment for the benefit of the people of that locality and the road users. The entire exercise is directed to be completed within a period of two weeks from the date of receipt of a copy of this order.



W.P.(MD)No.25927 of 2023 & CONT.P.(MD)No.2317 of 2023

WEB COPY

9. With these directions, this Writ Petition stands disposed of and the Contempt Petition stands closed. No costs. Consequently, connected miscellaneous petition is closed.

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

**11.12.2023**

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

*Yuva*

To

1. The Tahsildar,  
Taluk Office, Sivakasi Taluk,  
Virudhunagar District.
2. The Block Development Officer,  
Office of the Block Development Officer,  
Vembakottai Union, Sivakasi Taluk,  
Virudhunagar District.



WEB COPY



W.P.(MD)No.25927 of 2023 & CONT.P.(MD)No.2317 of 2023

**S.M.SUBRAMANIAM, J.**

**AND**

**V.LAKSHMINARAYANAN, J.**

*Yuva*

W.P.(MD)No.25927 of 2023

and

CONT.P.(MD)No.2317 of 2023

11.12.2023