



W.P.(MD)No.25962 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P.(MD)No.25962 of 2023

and

W.M.P.(MD)Nos.22319 & 22321 of 2023

K.S.Buhari

... Petitioner

Vs.

1.The District Collector,
Ramanathapuram District.

2.The Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram District.

3.The Executive Officer,
Mandapam Town Panchayat,
Ramanathapuram District.

4.K.Habib Rahman

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the impugned order passed by the 3rd respondent in Na.Ka.No.422/A1/2021, dated 20.10.2023 and quash the same.



W.P.(MD)No.25962 of 2023

For Petitioner : Mr.R.Maheswaran
For R1 to R3 : Mr.S.Shaji Bino,
Special Government Pleader
For R4 : Mr.A.Balaji

ORDER

Heard the learned counsel on either side.

2.The petitioner challenges the impugned eviction notice dated 20.10.2023. It is seen that the impugned notice is a fall out of the order dated 01.08.2023 made in W.P.(MD)No.16515 of 2021. The said Writ Petition was filed by the 4th respondent herein and the same was disposed of in the following terms:-

“6.In such circumstances, the Writ Petition is disposed of directing the 2nd respondent to conduct a survey in the presence of the petitioner, respondents 3 and 4 and other persons who have allegedly encroached the pathway after issuing notice to them and find out whether they have encroached into any portion of the public pathway. After conducting survey, if it is found that it is a public pathway, the second respondent shall draw a report about the extent and manner of encroachment, if any, and send the report to the petitioner, respondents 3 and 4 and the other encroachers. Depending upon the



W.P.(MD)No.25962 of 2023

report, the respondents 2 and 3 shall take appropriate proceedings as against the encroachers for removal of encroachment, if it is found that any portion of the public pathway is being encroached, under the Tamil Nadu Land Encroachment Act, 1905, following the procedures in the manner provided under the said Act and the Rules framed thereunder. The whole exercise shall be completed within a period of six weeks from the date of serving the survey report to the parties as indicated above. Parties may also approach the civil Court for infringement of their civil rights.”

3.Though survey was conducted in the presence of the writ petitioner, it is seen that survey report was not served on the petitioner. It is also seen that apart from the petitioner, there are other encroachers. We are of the view that the petitioner cannot be selectively targeted. All the encroachments will have to be removed at one go. We, therefore, dispose of this writ petition by directing the 3rd respondent to adhere to the directions given by the Division Bench of this Court in W.P.(MD)No.16515 of 2021 dated 01.08.2023. No costs. Consequently, connected miscellaneous petitions are closed.

**(G.R.S., J.) & (P.D.B., J.)
26.10.2023**

Index : Yes / No
Internet : Yes / No
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W.P.(MD)No.25962 of 2023

G.R.SWAMINATHAN, J.

AND

P.DHANABAL, J.

Yuva

To

- 1.The District Collector,
Ramanathapuram District.
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Ramanathapuram District.
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W.P.(MD)No.25962 of 2023

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