



W.P.(MD)No.26835 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.26835 of 2023
and W.M.P.(MD) No.23070 of 2023

G.Kuttidurai

... Petitioner

Vs.

1.The Executive Officer,
Achanputhur Town Panchayat,
Achanputhur
Kadayanallur Taluk,
Tenkasi District.

2.The Tahsildar,
Kadayanallur,
Tenkasi District.

3.T.Mahesh

...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 notice dated 21.08.2023, issued by the 1st respondent as illegal and quash the same.

For Petitioner : Mr.J.Senthil Kumariah



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For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader
for R1

Mr.S.P.Maharajan
Special Government Pleader
for R2

ORDER

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

The Writ Petition on hand has been instituted questioning the validity of the notice issued by the first respondent on 21.08.2023.

2. During the earlier round of litigation between the same parties in W.P. (MD) No.14872 of 2023, this Court passed an order on 23.06.2023 as under:-

“3. Learned counsel for the petitioner submits that the Sub Registrar has found the document of respondent No.2 to be fraudulent and has cancelled the same. The respondent No.2 has no authority, still is carrying out illegal construction on the property of the petitioner. The petitioner approached the authority but no cognisance had been taken by the authority. In case, the encroachment is being made on the private property, then the provisions of the Tamil Nadu Land Encroachment Act, 1905 do not apply. The petitioner has a remedy available before the civil Court to seek necessary orders. In case of measurement/survey, if the petitioner makes an application for carrying out the measurement of



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the property, naturally, the respondent authority is bound to measure the property in accordance with the Rules.

4. With liberty to the petitioner to avail the alternative remedy available, we dispose of the writ petition. All contentions raised by the petitioner are kept open. No costs.”

3. Despite the fact this Court made a finding that the subject property is a private property and in the event of any dispute of civil nature the parties are to be relegated to approach the competent Civil Court of law, again the Executive Officer, Achanputhur Town Panchayat, issued the impugned notice in proceedings dated 21.08.2023, asking the petitioner to appear for an enquiry along with the documents. The notice, no doubt, caused prejudice to the property right of the petitioner and more so after the order passed by this Court in W.P.(MD) No.14872 of 2023.

4. Learned Additional Government Pleader appearing on behalf of the first respondent made a submission that the subject property has been identified as a private property. Therefore, the notice has no relevance and the respondents 1 and 2 are not insisting upon the notice as the parties have to work out their remedy before the competent Civil Court of law.



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5. Recording the same, the Writ Petition stands allowed and the impugned notice issued by the first respondent on 21.08.2023 is set aside. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

**(S.M.S., J.) & (V.L.N., J.)
08.11.2023**

NCC : Yes / No
Index : Yes / No

SJ

To

1.The Executive Officer,
Achanputhur Town Panchayat,
Achanputhur
Kadayanallur Taluk,
Tenkasi District.

2.The Tahsildar,
Kadayanallur,
Tenkasi District.



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AND

V.LAKSHMINARAYANAN, J.

SJ

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