



WEB COPY



W.P.(MD)No.29010 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.29010 of 2023

and

W.M.P.(MD)No.25060 of 2023

M.Sivaramakrishnan

... Petitioner

Vs.

1.The Assistant Divisional Engineer,
Highways Department,
(Construction Maintenance),
Musri, Trichy District.

2.The Tahsildar,
Thottiam Taluk,
Thottiam,
Trichy District.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent in connection with the impugned eviction notice issued by him vide his proceedings in Ku.No.106/2023/A1 dated 01.12.2023 and quash the same as illegal, arbitrary and consequently direct the respondents not to disturb the



W.P.(MD)No.29010 of 2023

petitioner's residential house and shop situated in survey No.581 of Kolakudi Village, Thottiam Taluk, Trichy District as it is no way disturbance to the public based on his objection petition dated 03.12.2023 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu
For Respondents : Mr.S.P.Maharajan
Special Government Pleader

ORDER

(Order of the Court was made by ***V.LAKSHMINARAYANAN, J.***)

The petitioner claims that he is the owner of the property in Survey No. 581 at Kolakudi Village, Thottiam Taluk, Trichy District

2.Originally, the adjacent land holder filed a writ petition before this Court in W.P.(MD)No.17489 of 2023. That writ petition was also filed challenging the proceedings, which had been initiated under the State Highways Act. The said writ petition was allowed holding that prior to the eviction process, the respondents will have to conduct survey to identify the encroachment and thereafter, to proceed in accordance with law.



W.P.(MD)No.29010 of 2023

3.The learned counsel for the petitioner states that by virtue of the title starting from 12.12.1978, by way of purchase, his father is the owner of the property and after his demise the petitioner inherited the same. In the subject property, the father of the petitioner had constructed a residential building and a shop.

4.The learned Special Government Pleader appearing on behalf of the respondents submitted that pursuant to the directions of this Court by order dated 20.07.2023 in the earlier writ proceedings by the adjacent land holder, survey was conducted and the subject property was identified as an encroachment. The subject property was found to be the property of the Highways. Consequently, notice was issued under Section 28 of the National Highways Act.

5.Heard Mr.G.Thalaimutharasu, learned counsel for the petitioner and Mr.S.P.Maharajan, learned Special Government Pleader for the respondents.

6.The issue as to whether the petitioner is the owner of the subject property or otherwise cannot be decided by us sitting in writ proceedings. The proper remedy for the petitioner is to file a suit.



W.P.(MD)No.29010 of 2023

WEB COPY

7. Accordingly, this writ petition stands dismissed. It is always open to the petitioner to approach the jurisdictional civil Court for the relief sought for by the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S., J.) & (V.L.N., J.)
07.12.2023

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

To

1. The Assistant Divisional Engineer,
Highways Department,
(Construction Maintenance),
Musri, Trichy District.

2. The Tahsildar,
Thottiam Taluk,
Thottiam,
Trichy District.



WEB COPY



W.P.(MD)No.29010 of 2023

S.M.SUBRAMANIAM, J.

AND

V.LAKSHMINARAYANAN, J.

ta

W.P.(MD)No.29010 of 2023

07.12.2023