



W.P(MD)Nos.30175 to 30184 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.12.2023

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

W.P(MD)Nos.30175 to 30184 of 2023

and

**W.M.P.(MD)Nos.26003 to 26016, 26026, 26028, 26030, 26031,
26035 and 26036 of 2023**

W.P(MD)No.30175 of 2023

Shiek Dawood

... Petitioner

Vs.

The Executive Officer

Ponnamaravathi Town Panchayat,

Ponnamaravathi Taluk,

Pudukkottai District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for



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records pertaining the notice in Na.Ka.No.A1/802/2020 dated 07.12.2023 issued by the respondent and quash the same.

In all cases

For Petitioners : Mr.R.Paranjothi

For Respondent : Mr.K.Balasubramani,
Special Government Pleader

COMMON ORDER

Heard the learned counsel for the petitioners and the learned Special Government Pleader for the respondent.

2. The petition mentioned shops were put up by the local body on a water body. The petitioners were inducted as licensees. One Ganesan filed W.P.(MD)No.16765 of 2020 for removal of encroachment. The said Writ Petition was disposed of by the Division Bench of this Court on 11.11.2022 in the following terms:

“2.Today, when the matter was taken up for hearing, the learned Special Government Pleader



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for the respondents 1 to 3 has produced the proceedings of the 3rd respondent dated 21.10.2022 in Na.Ka.No.A2/802/2020, addressed to the Revenue Tahsildar, Ponnamaravathy and submitted that the authorities are going to conduct a survey of the water body in question, so as to ascertain whether there is any encroachment as projected by the petitioner. He further submitted that if the survey reveals any encroachment in the place in question, the same would be removed by the authorities concerned, after affording sufficient opportunity to all the parties concerned and by following due process of law, within a time frame.

3.In view of the above, without going into the merits of the case, this Court directs the authorities concerned to conduct a survey of the water body in question, in the presence of the petitioner as well as any other interested parties, after serving notice to them well in advance and if the survey reveals any encroachment in the water body, the same shall be removed by the authorities concerned, after affording sufficient opportunity to all the parties concerned and by following due



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process of law. Such an exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

4.With the above direction, this Writ Petition stands disposed of. No costs.”

3. Thereafter, some of the encroachers have filed W.P(MD)Nos.2074 to 2076 of 2011. The said Writ Petitions were disposed of by the learned Single Judge of this Court on 29.03.2022, in the following terms :

“4.Considering the rival submissions, this Court by order dated 02.01.2014, appointed an Advocate Commissioner to ascertain as to whether the property is a Government property or a private one. Accordingly, learned Advocate Commissioner has conducted an inspection and filed a report dated 07.02.2014, that the constructions are made by encroaching the Chinna Amarakandan Oorani.

5.It appears that the petitioners have



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filed these writ petitions to forbear the respondents from demolishing their shops. In view of the materials placed before this Court, the relief sought for in these writ petitions cannot be granted.

6. Accordingly, these writ petitions are dismissed. It is open to the respondents to take appropriate action to remove the encroachments, after issuing notice to the alleged encroachers and after giving due opportunity of hearing, in accordance with law. If the petitioners are having valid title over the property, they are also at liberty to establish the same by approaching the appropriate civil forum. There shall be no order as to costs. Consequently, all the connected miscellaneous petitions are closed.”

4. Pursuant to the said directions by the Hon'ble Division Bench, the impugned order came to be passed. Of course, as rightly pointed out by the learned counsel for the petitioners, the Executive



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Officer of the local body will not have the power to pass an order under Section 6 of the Tamil Nadu Land Encroachment Act. But wrong quoting of a legal provision will not vitiate any official proceedings.

5. Admittedly, the shop in question was put up only by the local body. The petitioners having been inducted as a lessee cannot claim any higher right. When the local body has called upon the petitioners to vacate the premises, the petitioners are bound to vacate the same. It is all the more so because for the several months no lease rents have been collected from the petitioners. We grant two months time from today for the petitioners to vacate the premises in question. If at the end of two (2) months period, the petitioners fail to vacate, it is open to the respondent herein to demolish the shops without any further notice. The petitioners have to necessarily file an affidavit of undertaking before the respondent within seven days from the date of receipt of a copy of this order.



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6. These Writ Petitions are dismissed with the aforesaid directions. No costs. Consequently, connected miscellaneous petitions are closed.

**(G.R.S.J.) & (B.P.J.)
19.12.2023**

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

RM

To

The Executive Officer
Ponnamaravathi Town Panchayat,
Ponnamaravathi Taluk,
Pudukkottai District.



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**G.R.SWAMINATHAN, J.
and
B.PUGALENDHI, J.**

RM

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