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W.M.P.No.22472 of 2023

W.M.P.No.22472 of 2023 in
Rev.Aplw.SR.No.94186 of 2023
against W.P.No.12298 of 2023

THE HON'BLE CHIEF JUSTICE
and
D.BHARATHA CHAKRAVARTHY, J.

(Order of the Court was made by the Hon'ble Chief Justice)

Heard Mr.C.Munusamy, learned counsel for the review applicant, Mr.S.Lakshmanaswamy, learned counsel for respondent 1 and Mr.T.K.Saravanan, learned Government Advocate for respondents 2 and 3.

2. The review application is filed against the order passed by the Coordinate Bench of this Court in W.P.No.12298 of 2023 dated 20.04.2023.

3. The learned counsel for the review applicant submits that there is no encroachment. The land in question housed public buildings. Students from the downtrodden community are taking education in the said building. The land in question is not a public pathway, but is a Government poromboke land, wherein, several permanent buildings and structures are existing. There are more than 15 fully grown trees. The TNEB transformer exists for more than 12



W.M.P.No.22472 of 2023

years. There is an overhead water tank. Playground for Panchayat Union Primary School is in existence for 25 years. Suppressing all these facts, the writ petition was filed.

4. We have gone through the order passed by this Court. Paragraph 4 of the said order reads thus:

"4. Recording the aforesaid submission made by learned State Government Pleader, the writ petition is disposed of with a direction to the respondent authorities to conduct a survey of the land in question with the assistance of the jurisdictional Surveyor and, if any encroachment is found, the same shall be removed after notice to the encroachers. The entire exercise is to be completed within a period of four weeks from the date of receipt of a copy of this order. There will be no order as to costs."

5. On perusal of the order, it is amply clear that the Court has not come to the conclusion of any encroachment or otherwise. The Court has not given any findings about existence of a pathway or otherwise. The Court has only observed that survey would be



W.M.P.No.22472 of 2023

WEB COPY

conducted with the assistance of the jurisdictional surveyor and if any encroachment is found, the same shall be removed after issuing notice to the encroachers. The order does not even whisper about a particular person committing encroachment.

6. No rights are adjudicated in the order, which is sought to be reviewed. As there is no adjudication on merits, the question of review of the said order would not arise. If based on the order passed in the writ petition, some steps are taken, which, according to the review applicant, are prejudicial and not in consonance with the same, then it is for the review applicant to challenge the same in accordance with law.

7. With these observations, the miscellaneous petition stands disposed of. There shall be no order as to costs. Consequently, the review application also stands disposed of at the SR stage itself.

(S.V.G., C.J.)

(D.B.C., J.)

30.01.2024

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