



W.P.No.32012 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.32012 of 2023

M.Deivanayagam

.. Petitioner

VS

1.The State of Tamil Nadu,
rep. by Principal Secretary to Government,
Department of Highways and Minor Ports,
Fort St. George, Secretariat,
Chennai-600 009.

2.The Assistant Divisional Engineer,
(Na) K (M) P, Department of Highways and Minor Ports,
Chennai City Roads Division,
Chennai-600 015.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the impugned orders of the second respondent in Rc.No.02/2023/O dated 26.10.2023 and quash the same and consequently forbear the 1st and 2nd respondents from in any way interfering with the petitioner's peaceful possession and enjoyment of the land and building comprised



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in Ward D, Block 109, S.No.3 Old S.No.1127/1B of Madhavaram Village admeasuring 2 grounds and 734 sq. ft. except in accordance with law.

For the Petitioner : Mr.B.Pachaiyappan
for M/s.S.Karpagapriya

For the Respondents : Mr.A.Edwin Prabakar
State Government Pleader

ORDER

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

We have heard Mr.B.Pachaiyappan, learned counsel for M/s.S.Karpagapriya, learned counsel for the petitioner and Mr.A.Edwin Prabakar, learned State Government Pleader for the respondents.

2. The petitioner is challenging the notice/order directing removal of encroachment.

3. It is the contention of learned counsel for the petitioner that the petitioner is in lawful possession and enjoyment of his building in Survey No.3, Old Survey No.1127/1B of Madhavaram Village admeasuring 2 grounds and 734 sq.ft. It is the further contention of



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learned counsel for the petitioner that though the respondents carried out the survey and the petitioner was present, the survey was not conducted properly and the survey report was not given to the petitioner.

4. It is the contention of learned State Government Pleader that the petitioner owns his land bearing Survey No.3, Old Survey No.1127/1B. However, the government land classified as road in Survey No.12, Block 50, Ward C at Madhavaram Town is encroached by the petitioner. The survey was conducted in the presence of the petitioner.

5. Naturally, the respondent authorities cannot remove the construction of the petitioner if the said construction is in his own land. However, the petitioner also does not have a right to extend or encroach upon the area of the government land.

6. The survey has been conducted in the presence of the petitioner. If the petitioner is aggrieved by the survey, then the petitioner has a remedy of appeal against the said survey.



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7. The respondent authorities shall give the copy of the survey report to the petitioner within one week from today. The respondent authorities may not take further action for a period of ten days from today. Needless to state that, on the lapse of ten days, the protection shall come to an end and the respondent authorities, subject to any interim order passed by the authority, are entitled to take further steps.

8. With these observations, the writ petition is disposed of.
There shall be no order as to costs.

(S.V.G., CJ.)

(D.B.C., J.)

12.02.2024

Index : Yes/No
Neutral Citation : Yes/No
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To

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Department of Highways and Minor Ports,
Fort St. George, Secretariat,
Chennai-600 009.
- 2.The Assistant Divisional Engineer,
(Na) K (M) P, Department of Highways and Minor Ports,



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Chennai City Roads Division,
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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY,J.

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