



W.P.No.32419 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2024

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
and

THE HONOURABLE MR. JUSTICE P.B.BALAJI

W.P.No.32419 of 2024 and
WMP No.35203 of 2024

Velusamy

...Petitioner

Vs.

1. The District Collector,
Coimbatore.
2. The Tasildar, Sulur Taluk,
Coimbatore District.
3. The President, Varapatti Panchayat,
Sulur Taluk, Coimbatore District.
4. Ponnammal

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India seeking to issue a writ of Certiorari, calling for the records of the second respondent in his proceedings dated 7.10.2024 issued under Section 6 of the Land Encroachment Act, 1905 against the petitioner in respect of S.No.712/2C1, Varapatti Village, Sulur Taluk, Coimbatore District and quash the order dated 7.10.2024.



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For Petitioner : Mr.M.Sivarathanan

For Respondents : Mr. Karthik Jagannath
Govt. Advocate for respondents 1 to 3

ORDER

(Order of the Court was delivered by **D.KRISHNA KUMAR, J.**)

This Writ petition has been filed to quash the proceedings of the second respondent dated 7.10.2024 issued under Section 6 of the Land Encroachment Act, 1905 against the petitioner in respect of S.No.712/2C1, Varapatti Village, Sulur Taluk, Coimbatore District.

2. According to the petitioner, he is the owner of the subject matter of the land, vide sale deed dated 30.05.2008 and after purchasing the property, he constructed a house in the land and is residing thereon. In such circumstances, the second respondent had issued a show cause notice dated 23.08.2024 under Section 7 of the Land Encroachment Act, stating that the petitioner had encroached 38 sq.meter of road and called for explanation. Though the petitioner has given a proper explanation on 26.08.2024, the second respondent without conducting any enquiry and giving notice under Section 6 of the Land Encroachment Act, had



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attempted to dispossess the petitioner. Hence, he filed W.P.No.27812 of 2024 seeking to consider his objection as well to conduct detail survey in respect of the public road. The said writ petition was disposed of on 24.09.2024, by directing the authorities concerned to consider the objection dated 26.08.2024 and conduct survey of the entire road in question and thereafter take necessary action for removal of the encroachment. However, contrary to the said order, the second respondent has issued the impugned order dated 7.10.2024 under Section 6 of the Land Encroachment and directed the petitioner to remove the structures, as given in the schedule thereon. Hence this writ petition.

3. Heard learned counsel for the petitioner and learned Government Advocate appearing for the respondent and we have gone through the material records.

4. This Court, vide order dated 24.09.2024 made in W.P.27812 of 2024, has passed the following order.

3. Learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that the objection/request of the petitioner will be considered by the authority concerned and survey



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would be undertaken qua the entire road in question and if any encroachment is found, thereafter, the authority concerned will take necessary action for removal of the encroachment.

4. Recording the said submission made by learned Additional Government Pleader, the writ petition is disposed of with a direction to the respondent authorities to consider the objection dated 26.08.2024 of the petitioner and conduct survey of the entire road in question and thereafter take necessary action for removal of the encroachment. The said exercise shall be concluded within a period of twelve weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, W.M.P.No.30324 of 2024 is closed.

5. Learned Government advocate fairly submitted before this court that, the order passed by this Court dated 24.09.2024 in W.P.No.27812 of 2024 has not been complied with. Further, he has also given undertaking before this court that survey will be conducted on the entire road in question and thereafter, the authorities concerned will take action in accordance with law.

4. From the submission made by the learned Government Advocate, it is clear that, the authorities concerned has not conducted the survey in the road in question and without any application of mind, the



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second respondent has issued the impugned order. As such, we have no hesitation to quash the impugned order passed by the second respondent.

5. Accordingly, this writ petition is allowed and the impugned order passed by the second respondent, dated 7.10.2024 is quashed. Further, the respondent authorities shall comply the order passed by this Court in W.P.No.27812 of 2024, dated 24.09.2024 without any deviation, failing which, it will be viewed seriously. Further, in view of the disobedience of the authorities concerned in complying the said order of the writ court, we decided to impose heavy costs, however at request of the learned Government Advocate, we are not inclined to impose costs.

(D.K.K, J.) (P.B.B., J.)

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Internet: Yes/no
Index : Yes/No
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To

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