



W.P.(MD) No.406 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD) No.406 of 2024
and W.M.P.(MD) Nos.433 and 434 of 2024**

Thangarasu

... Petitioner

-vs-

The Tahsildar,
Kadavur Taluk,
Karur District – 621 313.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records in Na.Ka.A5/2091/2023, dated 15.12.2023 on the file of the Respondent and quash the same.

For Petitioner : Mr.I.Rombo Roy Alfred

For Respondent : Mr.N.Satheeshkumar
Additional Government Pleader



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ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition has been filed challenging the notice issued by the respondent in Na.Ka.A5/2091/2023, dated 15.12.2023, under Section 6 of the Land Encroachment Act, 1905.

2. Learned counsel for the petitioner by inviting the attention of this Court to the earlier order of this Court dated 14.09.2023 in W.P.(MD) No.22351 to 22354 of 2023 would submit that the earlier order of this Court has not been complied with and without conducting a survey in the presence of the petitioner to identify the encroachment and furnishing the copy of the report to the petitioner, the impugned notice is issued.

3. This Court on 14.09.2023 in W.P.(MD) No.22351 to 22354 of 2023 passed the following order:-

“11.In view of the conclusion reached above, the second respondent is directed to initiate proceedings under the Land Encroachments Act, 1905, after conducting a survey in the



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presence of the petitioners. The second respondent shall proceed further in accordance with law, if any encroachment is identified at the time of survey. A copy of the report of the survey shall also be furnished by the second respondent to the petitioners before proceeding further. In case any encroachment is identified, the second respondent shall initiate proceedings and complete the process of eviction within a period of eight [8] weeks from the date of serving a copy of the survey report to the petitioners.”

4. Learned Additional Government Pleader appearing for the respondent fairly stated before this Court on perusal of the records that the said order passed by the respondent is without considering the earlier orders passed by this Court, and further, without conducting survey and furnishing the copy of the survey report to the petitioner.

5. In view of the submissions made on behalf of the parties, we are of the view that the impugned order of the respondent is unsustainable as the respondent has not complied with the order of this Court dated 14.09.2023, passed in W.P.(MD) No.22351 to 22354 of 2023, wherein this Court has directed



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the respondent to conduct survey in the presence of the petitioner to identify the encroachment and to furnish a copy of the survey report to the petitioner.

6. By passing the impugned order without complying with the directions issued by this Court on 14.09.2023 in W.P.(MD) No.22351 to 22354 of 2023, the respondent has disobeyed the order of this Court. However, at the request of the learned Additional Government Pleader, appearing for the respondent, we are inclined to grant one more opportunity to the respondent to comply with the earlier order of this Court in letter and spirit. In the light of the above, we pass the following order:-

- i. The notice issued by the respondent in Na.Ka.A5/2091/2023, dated 15.12.2023, is set aside.
- ii. The respondent is directed to comply with the earlier order of this Court dated 14.09.2023 passed in W.P.(MD) No.22351 to 22354 of 2023 within a period of twelve weeks from the date of receipt of a copy of this order.



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7. Accordingly, the Writ Petition stands allowed. No costs.

Consequently, connected Writ Miscellaneous Petitions are closed.

[D.K.K., J.] [R.V., J.]
09.01.2024

Index : Yes / No
Internet : Yes / No
SJ

To

The Tahsildar,
Kadavur Taluk,
Karur District – 621 313.



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and
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W.P.(MD)Nos.440 and 406 of 2024
and W.M.P.(MD)Nos.478 and 434 of 2024

D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

(Order of the Court was made by D.KRISHNAKUMAR, J.)

These matters have been listed today under the caption 'For being mentioned' before signing of the order at the instance of the learned counsel appearing for the respondent on 09.01.2024 itself.

2. The learned counsel appearing for the respondent submitted that this Court by order dated 09.01.2024, allowed the Writ Petitions in W.P.(MD)No.440 and 406 of 2024, with the following directions:

i) the notice issued by the respondent in Na.Ka.A5/2091/203, dated 15.12.2023 is set aside;

ii) The respondent is directed to comply with the earlier order of this Court dated 14.09.2023 passed in W.P.(MD)No.22351 to 22354 of 2023 and take a decision within a period of twelve weeks from the date of receipt of a copy of this order.



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3. The learned counsel for the respondent further submitted that though this Court has passed the aforesaid order on 09.01.2024, the respondents, removed the encroachments in the property in question on 10.01.2024. In support of his submissions, he has produced the photographs.

4. On a perusal of the records, it is seen that the respondents have removed the encroachments in the property in question without complying the order of this Court. Therefore, this Court is of the view that to decide the dispute between the parties, the order passed by this Court dated 09.01.2024 in W.P.(MD)Nos.440 and 406 of 2024 has to be recalled.

5. Accordingly, the order dated 09.01.2024 passed by this Court in W.P. (MD)Nos.440 and 406 of 2024 is recalled.

6. Post the matter after four weeks for filing counter. In the meantime, both the parties are directed to maintain status quo as on today.

[D.K.K., J.] [R.V., J.]

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D.KRISHNAKUMAR, J.

and

R.VIJAYAKUMAR, J.

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