



W.P.(MD) No.2263 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.02.2024

CORAM:

THE HONOURABLE **MR.JUSTICE D.KRISHNAKUMAR**

AND

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

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Karnan

... Petitioner

-Vs-

1.The District Collector,
Theni District, Theni.

2.The Revenue Divisional Officer,
Theni, Theni District.

3.The Tahsildar,
Theni Taluk, Theni District.

4.The Commissioner,
Theni-Allinagaram Municipality,
Theni Town & Taluk,
Theni District.

5.Natchammal @ Nagammal

6.Muthammal

7.Boopathi

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 4th respondent to remove the encroachment in Survey Nos.598/1 and 598/2, Ward No.9, (Old Ward No.12) Theni-Allinagaram

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Municipality, Theni Taluk and District in view of the representation dated 02.07.2021 within the stipulated time.

For Petitioner : Mr.M.Jothi Basu
For R1 to R3 : Mr.S.P.Maharajan,
Special Government Pleader
For R4 : Mr.G.Kaleeswaran,
Standing Counsel

ORDER

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

This Writ Petition is filed to direct the 4th respondent to remove the encroachment in Survey Nos.598/1 and 598/2, Ward No.9, (Old Ward No.12) Theni-Allinagaram Municipality, Theni Taluk and District based on the representation of the petitioner dated 02.07.2021 within the stipulated time.

2.By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.Mr.S.P.Maharajan, learned Special Government Pleader accepts notice on behalf of the respondents 1 to 3 and Mr.G.Kaleeswaran, learned Standing Counsel accepts notice on behalf of the 4th respondent. Considering the nature of



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order going to be passed in this Writ Petition, notice to the respondents 5 to 7 is dispensed with.

4.The petitioner states that the Municipality has provided drainage and water connection to every house in the limit of Theni Allinagaram Municipal Area and laid road to the width of 40 feet. However, in respect of Ward No.9 the said work has not been completed due to the encroachment made in Survey Nos.598/1 and 598/2. Therefore, pointing out the same, the petitioner made several representations to the official respondents, lastly, on 25.04.2022. Based on the same, the 4th respondent sent a communication dated 28.09.2022 to the petitioner, informing that the encroachers seek alternate land and since the encroached area is very much essential for town expansion, the 4th respondent made a request to provide alternate land to the encroachers.

5.He further states that by using the provisions of Right to Information Act, 2005, he came to know that vide order dated 21.12.2023, the District Consumer Forum, Theni directed the Municipality to provide a drainage connection to the petitioner's house within a period of 30 days and to pay a sum of Rs.50,000/- (Rupees Fifty Thousand Only) as compensation for mental agony and Rs.20,000/- (Rupees Twenty Thousand Only) as litigation expenses. Since the



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authorities did not take any action for removal of encroachment, he is constrained to move the present Writ Petition.

6.Considering the facts and circumstances of the case, without going into the merits of the case, we direct the 4th respondent to conduct a survey on the property in question and during survey, if it is found that there is any encroachment, take action for removal of encroachment, after providing opportunity to the parties concerned. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

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

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

05.02.2024

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

Yuva



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WEB COPY

To

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AND

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