



W.P.(MD) No.2188 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) No.2188 of 2024

and W.M.P.(MD) Nos.2203 and 2204 of 2024

- 1.Mani
- 2.Kandasamy
- 3.Sabibula
- 4.Hussain
- 5.Uthayakumar
- 6.Rajamohammed

... Petitioners

Vs.

- 1.The District Collector,
Trichy District,
Trichy.
- 2.The Superintending Engineer,
Construction and Maintenance of Highways,
Trichy District,
Trichy.



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3.The Assistant Divisional Engineer,
(Construction and Maintenance),
Highways,
Manapparai,
Trichy District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in pertaining to the impugned order of the 3rd respondent vide his proceedings Nil dated 23.01.2024 and quash the same as illegal and consequently directing the 3rd respondent not to evict from their houses situated at Boothanayagi Amman Kovil Street, Vengitanayakkanpatti Road, Thuvarankurichi, Marungapuri Taluk, Trichy District without following any due process of law by considering their objections dated 19.01.2024 relating to issuance of patta to their dwelling houses.

For Petitioners : Mr.T.Vadivelan

For Respondents : Mr.R.Baskaran,
Addl. Advocate General,
Assisted by Mr.N.Satheesh Kumar,
Addl. Govt. Pleader



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ORDER

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

This Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the 3rd respondent vide his proceedings Nil dated 23.01.2024 and quash the same as illegal and consequently directing the 3rd respondent not to evict from their houses situated at Boothanayagi Amman Kovil Street, Vengitanayakkanpatti Road, Thuvarankurichi, Marungapuri Taluk, Trichy District without following any due process of law by considering their objections dated 19.01.2024 relating to issuance of patta to their dwelling houses.

2. By consent, this Writ Petition is taken up for final disposal.

3. According to the petitioners, they are residing at S.No.82/2 at Thuvarankurichi, which is classified as Nilaviyal Pathai and the impugned order



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has been passed in respect of S.No.83 and therefore, the impugned eviction order passed by the third respondent is per-se illegal. Hence, the petitioners have filed this Writ Petition.

4. The learned counsel for the petitioners submitted that since there is a dispute with regard to the property, he seeks for a direction to survey the property in question and if found, there is encroachment in the Highways Department, then they can proceed for removal of encroachment.

5. The learned Additional Advocate General appearing for the respondents submits that pursuant to the notice, action has been taken by the respondents for removal of encroachment. He further submits that the property in S.No.83 belongs to the Highways Department.

6. Considering the facts and circumstances of the case, we are of the view that to resolve the dispute and for interest of all the parties, the property in question have to be measured with the assistance of the surveyor and thereafter, to take further course of action for removal of encroachment.



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7. Accordingly, this Court directs the respondents herein to conduct field inspection on 03.02.2024 at 10.00 a.m. along with the concerned Thasildar and to measure the property with the assistance of the surveyor and based on the report of the surveyor, if found the property in question belongs to the Highways Department and there is any encroachment by the petitioners, the respondents shall take further action for removal of encroachment.

8. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.] [R.V., J.]
02.02.2024

NCC : Yes / No
Index : Yes / No
vsm

D.KRISHNAKUMAR, J.
and



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R.VIJAYAKUMAR, J.

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