



W.P.(MD)No.2678 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.2678 of 2024

and

W.M.P.(MD)No.2690 of 2024

R.Shanthi Sri

: Petitioner

Vs.

1.The Commissioner,
Madurai City Municipal Corporation,
Madurai.

2.The Assistant Commissioner,
Zone – IV (South),
Madurai City Municipal Corporation,
Madurai.

3.The Assistant Executive Engineer (Scheme).
Zone – IV (South),
Madurai City Municipal Corporation,
Madurai.



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4.The Assistant Engineer,
Ward No.86,
Madurai City Municipal Corporation,
Madurai.

5.V.Senthamil Selvi : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, calling for the records relating to the impugned order dated 30.01.2024 in Ma4D1/004035/2023 passed by the second respondent and quash the same insofar as petitioner is concerned.

For Petitioner : Mr.J.Barathan
For Respondents 1 to 4 : Mr.S.Vinayak
Standing Counsel

O R D E R

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

This Writ Petition has been filed as against the action taken by the second respondent for removal of encroachments vide order dated 30.01.2024 in Ma4D1/004035/2023.

2.According to the petitioner, the petitioner purchased a property in Old Survey No.946, New Survey No.5, Keeraithurai



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Thoppu, North First Street to an extent of 1922 sq.ft., and has also constructed a house. The petitioner's vendors had purchased the said property through three registered sale deeds. Thereafter, the said property had been purchased by the petitioner on 05.06.2006.

3. According to the petitioner, on the south of the said property, there is a 10 feet wide common pathway, on the west there is a 20 feet wide public road and on the east there is a 20 feet wide public road. The fifth respondent is disputing with the petitioner with respect to the common pathway on the southern side of the said property. Stating that the writ petition had encroached into the 20 feet wide public road on the eastern and western side of the said property, the fifth respondent had filed a Writ Petition in W.P.(MD)No.16048 of 2023. This Court vide order dated 04.07.2023 has disposed of the said writ petition by giving a direction to the respondents therein to dispose of the representation of the fifth respondent by providing opportunity to the petitioner. Pursuant to the aforesaid order, the respondent Corporation had served notice on the petitioner and the petitioner had also submitted an objection dated 26.12.2023 to the respondents. Thereafter, the present impugned order has been passed by the second respondent for removal of encroachments in the said property.



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4.It is the case of the petitioner that according to them the said property is a pathway which is not a public pathway but it is a common pathway. Therefore, the authorities do not have the power to initiate action for removal of the encroachments.

5.In the impugned order it has been stated that the said property in T.S.No.95 and 97 is a ryotwari patta land and in the aforesaid property there is a pathway found in the record and therefore, in the interest of the public, the petitioner has to remove the encroachment in the property in question. Therefore, we do not find any merit in the present writ petition.

6.Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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

08.02.2024

Neutral Citation : Yes/No
Index : Yes/No
Internet : Yes/No
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D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

MR

ORDER MADE IN
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