



W.P.(MD) No.3068 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2024

CORAM:

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

AND

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

W.P.(MD)No.3068 of 2024

and

W.M.P.(MD)No.3047 of 2024

S.Senthoorpandi

... Petitioner

-Vs-

1.The District Collector,
Thoothukudi District.

2.The Assistant Director Panchayats,
O/o. Assistant Director Panchayats,
Tirunelveli.

3.The Tahsildar,
Taluk Office, Thiruchendur Taluk,
Thoothukudi District.

4.The Executive Officer,
Udankudi Town Panchayat,
Thiruchendur Taluk, Thoothukudi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 4th respondent



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dated 18.01.2024 in Na.Ka.No.30/2020/A1, issued under Section 128 (1)(b) & (2) of the Tamil Nadu Urban Local Bodies Act, 1998 to remove the encroachments made in public pathway situated in S.No.186/54, Udankudi Revenue Village, Thoothukudi District and to quash the same as illegal and consequently, to direct the respondents by providing fair opportunity of being heard by following the procedures enumerated under Tamil Nadu Urban Local Bodies Act, 1998.

For Petitioner : Mr.C.Murugavel
For R1 to R3 : Mr.N.Satheesh Kumar,
Additional Government Pleader
For R4 : Mr.S.P.Maharajan,
Special Government Pleader

ORDER

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

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

2.The petitioner has filed this Writ Petition challenging the eviction order dated 18.01.2024 issued by the 4th respondent under Section 128 (1)(b) & (2) of the Tamil Nadu Urban Local Bodies Act, 1998 on the ground that the 4th respondent has issued the impugned order without providing any opportunity to the petitioner. Therefore, the same is liable to be quashed on the ground of violation of principles of natural justice.



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3.Mr.N.Satheesh Kumar, learned Additional Government Pleader takes notice for the respondents 1 to 3 and Mr.S.P.Maharajan, learned Special Government Pleader, who takes notice for the 4th respondent, is not in a position to satisfy this Court that the impugned eviction order is passed only after granting opportunity to the petitioner.

4.We have carefully gone through the impugned order dated 18.01.2024 issued by the 4th respondent, which reveals that survey had been conducted and encroached portion was marked, however, no survey report has been furnished to the petitioner, for which, the learned Special Government Pleader undertakes that the survey report will be furnished to the petitioner within a period to be stipulated by this Court.

5.In view of the above, the order impugned dated 18.01.2024 is to be construed as a show cause notice, enabling the petitioner to submit his objections along with documents, if any. The 4th respondent is directed to furnish the survey report to the petitioner within a period of one week from the date of receipt of a copy of this order and the writ petitioner is at liberty to submit his objections within a period of three weeks from the date of receipt of a copy of this order. On



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receipt of such objections, if any from the petitioner, the 4th respondent shall consider the same and thereafter, proceed further to remove the encroachments.

The said exercise is directed to be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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

13.02.2024

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

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To

1. The District Collector,
Thoothukudi District.
2. The Assistant Director Panchayats,
O/o. Assistant Director Panchayats,
Tirunelveli.
3. The Tahsildar,
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4.The Executive Officer,
Udankudi Town Panchayat,
Thiruchendur Taluk, Thoothukudi District.



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AND

R.VIJAYAKUMAR, J.

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