



W.P.(MD) No. 7397 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2024

CORAM:

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

AND

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

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Mahalingam

... Petitioner

-Vs-

- 1.The District Collector,
Madurai District, Madurai.
- 2.The Revenue Divisional Officer,
Madurai East, Madurai.
- 3.The Tahsildar,
Madurai East Taluk,
Madurai..
- 4.The Monitoring Committee,
Tahsildar,
Madurai East Taluk,
Madurai.
- 5.Madhavan
- 6.Sivakumar

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 4 to take appropriate action for



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removal of encroachment made by the respondents 5 to 6 at public road at Survey No.25/6 and 25/7 at Kathakinaru Post, Madurai District and dispose of the representation dated 02.02.2024 made by the petitioner within the time limit that may be stipulated by this Court.

For Petitioner : Mr.D.Selvanayagam
For R1 to R4 : Mr.P.Thilakkumar,
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.Mr.P.Thilakkumar, learned Government Pleader takes notice for the respondents 1 to 4. Considering the nature of order going to be passed in this Writ Petition, notice to the respondents 5 and 6 is dispensed with.

3.According to the petitioner, he made a representation dated 02.02.2024 to the respondents 1 to 4, pointing out the encroachment made by the respondents 5 and 6 in Survey Nos.25/6 and 25/7 at Kathakinaru Post, Madurai



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District, which are classified as Government Poromboke land in the revenue records. Since the same has not been considered so far, he has filed this Writ Petition.

4.The learned Government Pleader appearing for the official respondents submits that the land in Survey Nos.25/6 and 25/7 is a private patta land. He has also produced the revenue records to substantiate the same. A suit in O.S.No.73 of 2008 was also filed with regard to the same seeking permanent injunction and the same was dismissed. Challenging the said dismissal order, an appeal was also filed in A.S.No.89 of 2012 and the same was also dismissed for default. The petitioner was also a party to the said civil proceedings. Since the property in question is the private patta land, the official respondents cannot take action for removal of encroachment in the private land. Hence, the application submitted by the petitioner was not considered.

5.We have perused the entire materials placed on record. The revenue records shows that the subject properties are private properties. The officials respondents are the District Collector and revenue officers. The revenue officials have no power under any law to deal with the encroachment in private patta lands. In such circumstances, the whole Writ Petition is misconceived.



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6.It is to be noted that the petitioner has filed this writ petition without mentioning the particulars of encroachment. The properties mentioned by the petitioner in this writ petition are the private patta lands, with regard to which a suit was filed and dismissed. Though the petitioner was a party to the said civil proceedings, except mentioning that the civil suit is pending before the competent civil Court, he has not provided any particulars of the civil suit, which has gone to the level of first appeal and got dismissed.

7.Considering the fact that the petitioner has not disclosed the correct facts and also description of the property, in which encroachment has been made, this Court is not inclined to entertain the prayer sought for by the petitioner. Accordingly, this writ petition is dismissed with cost of Rs.10,000/- (Rupees Ten thousand only) payable to High Court Legal Services Authority attached with this Bench. No costs.

[D.K.K., J.] & [R.V., J.]
26.03.2024

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