



W.P.(MD)No.8224 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

and

THE HONOURABLE MR.JUSTICE A.D.MARIA CLETE

W.P.(MD)No.8224 of 2023

T.Balakrishnan

: Petitioner

Vs.

1.The District Collector,
Tenkasi District.

2.The Revenue Divisional Officer,
Sankarankovil, Tenkasi District.

3.The Tahsildar,
Sankarankovil Taluk,
Tenkasi District.

4.The Land Surveyor,
Sankarankovil, Tenkasi District.

5.The Block Development Officer,
Sankarankovil,
Tenkasi District.

: Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the first respondents to remove the encroachments made by the Karivalamvanthanallur Panchayat Union School comprised in S.No. 998/1A2 Survey No.168/11, Karivalamvanthanallur Village, Sankarankovil Taluk, Tenkasi District by making proper survey in the above said land.

For Petitioner : Mr.T.Kanagaraj

For Respondents 1 to 4 : Mr.J.Ashok

Additional Government Pleader

For Respondent No.5 : Mr.A.Baskaran

Additional Government Pleader

O R D E R

[Order of the Court was made by **M.S.RAMESH, J.**]

On the ground that the first respondent had encroached upon a portion of the petitioner's property in S.No.998/1A2, S.No. 168/11, Karivalamvanthanallur Village, Sankarankovil Taluk, Tenkasi District, the petitioner seeks for issuance of a Writ of Mandamus, for removal of the encroachment. The petitioner claim to be a successor in interest.



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2.After notice, it was confirmed that the first respondent herein had encroached into the petitioner's property by constructing a compound wall, apart from a small portion of the school building of the first respondent and its sunshade occupying the petitioner's property. The first respondent herein has now demolished the compound wall which was inside the petitioner's property. However, 6 sq.mts in the northern side of the petitioner's land has been encroached upon by a part of the entire school building and the sunshade constructed in the school building still encroaches upon the petitioner's property.

3.The petitioner however, has agreed to permit the functioning of the school building, along with the encroachment, without insisting for demolition of the encroached portions. He has also filed a duly sworn-in affidavit dated 09.12.2024, to this effect. The relevant portion of the affidavit reads as follows:

"4.I respectfully submit that in and by the direction of this Hon'ble Court, the lands were surveyed and a status report dated 24.04.2023, was filed by the 2nd respondent, wherein the 2nd respondent has conceded that the aforementioned Karivalamvanthanallur Panchayat Union School has encroached into



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the property belonging to me to an extent of 6 sq.mts, in the North of the property belonging to me.

5.I respectfully submit that since the construction of the aforementioned Karivalamvanthanallur Panchayat Union School is almost complete and the same being an institution providing primary education to students of rural and remote locality, the demolition and removal of encroachment by the aforementioned Karivalamvanthanallur Panchayat Union School may cause hardship to the students and people of that locality. Considering the hardship that may be caused to such people as aforementioned, I agree to permit the aforementioned Karivalamvanthanallur Panchayat Union School, Sankarankovil Taluk, Tenkasi District, to continue the possession of the land thus encroached to an extent of 6 sq.Mts alone, belonging to me, only as a permissive occupant and in the event of demolition and reconstruction or remodeling the Karivalamvanthanallur Panchayat Union School, the permission granted by me shall stands terminated and the land measuring 6 Sq.Mts. Belonging to me, occupied by the Karivalamvanthanallur Panchayat Union School,



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at present, shall be surrendered to me or my successors-in-interest. The permission granted by me shall not in any way preclude me or my successor-in-interest to claim right, title and interest in the property thus permitted to be occupied by the Karivalamvanthanallur Panchayat Union School and the occupation of the school shall not grant any right, title or interest, adverse to that of mine or my successor-in-interest."

4.We would like to place our appreciation to the petitioner who has put the interest of an educational institution, above his personal interest and had permitted them to run the school, without any hindrance. In order to protect his interest, we hold that the petitioner will also be entitled to get back possession of his land at a later point of time, in case the school building is demolished by the first respondent or remodelled, since this is a case of permissive occupation.

5.In view of the affidavit filed by the petitioner, permitting the running of the school in as is where is condition, no further orders are required.



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6.Accordingly, this Writ Petition stands closed. There shall be no order as to costs.

[M.S.R.,J.] & [A.D.M.C.,J.]
12.12.2024

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

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MR

ORDER MADE IN
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