



W.P.(MD) No.12387 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2024

CORAM:

THE HONOURABLE **MR.JUSTICE R.SURESH KUMAR**

AND

THE HONOURABLE **MR.JUSTICE G.ARUL MURUGAN**

W.P.(MD)No.12387 of 2024

and

W.M.P.(MD)Nos.10971 to 10973 of 2024

Achutha Kannan

... Petitioner

-Vs-

1.The District Collector,
Virudhunagar District, Virudhunagar.

2.The Revenue Divisional Officer,
Sattur, Virudhunagar District.

3.The Tahsildar,
Vembakottai Taluk Office,
Vembakottai, Virudhunagar District.

4.The Block Development Officer (Village Panchayat),
Vembakottai, Virudhunagar District.

5.The President,
Kongankulam Panchayat,
TNC Alangulam Post,
Vembakottai Taluk,
Virudhunagar District-626 127.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records in relating to the impugned order of the 3rd respondent made in Na.Ka.AA1/3291/2023, dated 23.01.2024 and to quash the same insofar as the petitioner is concerned and consequently, to forbear the respondents from disturbing the peaceful possession and enjoyment of the petitioner's house situating in Survey No.46/5 & 46/1 in Kongankulam Village, Vembakottai Taluk, Virudhunagar District.

For Petitioner : Mr.M.S.Jeyakarthik

For Respondents : Mr.N.Satheesh Kumar,
Additional Government Pleader

ORDER

[Order of the Court was made by *R.SURESH KUMAR, J.*]

The prayer sought for in this Writ Petition is to call for the entire records in relating to the impugned order of the 3rd respondent made in Na.Ka.AA1/3291/2023, dated 23.01.2024 and to quash the same insofar as the petitioner is concerned and consequently, to forbear the respondents from disturbing the peaceful possession and enjoyment of the petitioner's house situating in Survey Nos.46/5 & 46/1 in Kongankulam Village, Vembakottai Taluk, Virudhunagar District.



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2.In respect of the petitioner's house situated at Survey Nos.46/5 & 46/1 in Kongankulam Village, Vembakottai Taluk, Virudhunagar District, a notice under Section 7 of Act III of 1905 (hereinafter referred to as 'the Act') followed by an order under Section 6 of the Act had been issued by the revenue authorities, since there has been encroachment in the front portion of the dwelling house, where there has been construction made in the very street itself. Therefore, it is an encroachment, according to the revenue authorities.

3.Despite Section 6 order was passed, since the petitioner has not taken any steps to remove such encroachment, on 23.01.2024, a detailed order has been passed by the 3rd respondent, whereby, directions had been given to the 4th respondent to remove such encroachment and report to the 3rd respondent. Aggrieved over the same, though the petitioner had filed an appeal before the 2nd respondent on 04.03.2024, pending consideration of the appeal, he has approached this Court by filing the present Writ Petition, challenging the very same order dated 23.01.2024 passed by the 3rd respondent.

4.Heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.



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5.The learned counsel for the petitioner, having produced some photographs, has argued that there has been no encroachment in the street as alleged in the order impugned. Despite that, this order has been passed, under which, the Block Development Officer is directed to take coercive steps to remove such structure or building that has been constructed.

6.We have gone through the materials placed before this Court and also the photographs shown by the learned counsel for the petitioner.

7.Even in the photographs, it has been explicitly made clear that there has been a small portico, that has been constructed, after putting up two strong pillars, which are fully erected in the street. When that being so, it cannot be stated that there has been no encroachment.

8.Be that as it may, as against the order dated 23.01.2024, which is impugned herein, since the petitioner has already filed an appeal before the 2nd respondent on 04.03.2024, we direct the 2nd respondent to dispose of the said appeal dated 04.03.2024, after giving an opportunity of being heard to the petitioner, within a period of thirty (30) days from the date of receipt of a copy of



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this order. Till such disposal, no coercive steps shall be taken to remove such alleged encroachment.

9. With these directions, this Writ Petition is disposed of. No costs.

Consequently, connected miscellaneous petitions are closed.

[R.S.K., J.] & [G.A.M., J.]
12.06.2024

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

Yuva

To

1. The District Collector,
Virudhunagar District, Virudhunagar.
2. The Revenue Divisional Officer,
Sattur, Virudhunagar District.
3. The Tahsildar,
Vembakottai Taluk Office,
Vembakottai, Virudhunagar District.
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