



W.P(MD)No.12645 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.P(MD)No.12645 of 2024
and
W.M.P(MD)Nos.11256, 11257 & 11258 of 2024**

Kanagaraj

... 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.



W.P(MD)No.12645 of 2024

WEB CERTIFICATE

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

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the entire records in relating to the impugned order of the third 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.44/23 & 45/2 in Kongankulam Village, Vembakottai Taluk, Virudhunagar District.

For Petitioner : Mr.M.S.Jeyakarthik

For Respondents : Mr.A.Kannan
Additional Government Pleader

ORDER

(Order of the Court was made by R.SURESH KUMAR, J.)

The prayer sought for in this Writ Petition is for a Writ of Certiorarified Mandamus, to quash the impugned order of the third respondent made in Na.Ka.AA1/3291/2023, dated 23.01.2024 insofar as the petitioner is concerned and consequently, to forbear the respondents

2/7



W.P(MD)No.12645 of 2024

WEB COPY

from disturbing the peaceful possession and enjoyment of the petitioner's house situating in Survey Nos.44/23 & 45/2 in Kongankulam Village, Vembakottai Taluk, Virudhunagar District.

2.In respect of the petitioner's house situated at Survey Nos. 44/23 & 45/2 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 an 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 third respondent, whereby, directions had been given to the fourth respondent to remove such encroachment and report to the third respondent. Aggrieved over the same, though the petitioner had filed an appeal before the second respondent on 04.03.2024,



W.P(MD)No.12645 of 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 third respondent.

4.Heard Mr.M.S.Jeyakarthik, learned counsel appearing for the petitioner and Mr.A.Kannan, learned Additional Government Pleader appearing for the respondents.

5.The learned counsel appearing 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 appearing for the petitioner.



W.P(MD)No.12645 of 2024

WEB COPY

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 second respondent on 04.03.2024, we direct the second 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 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. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

[R.S.K.,J.] [G.A.M.,J.]
14.06.2024

NCC : Yes / No
Index : Yes / No
ps

5/7



W.P(MD)No.12645 of 2024

WEB COPY

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.
- 4.The Block Development Officer (Village Panchayat),
Vembakottai,
Virudhunagar District.
- 5.The President,
Kongankulam Panchayat,
TNC Alangulam Post,
Vembakottai Taluk,
Virudhunagar District – 626 127.



WEB COPY



W.P(MD)No.12645 of 2024

R.SURESH KUMAR,J.
and
G.ARUL MURUGAN,J.

ps

ORDER MADE IN
W.P(MD)No.12645 of 2024

DATED : 14.06.2024