



W.P(MD)No.11621 of 2018

WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 27.02.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.11621 of 2018
and
W.M.P(MD)No.10587 of 2018**

V.Chinnaiah

... Petitioner

vs.

1. The District Collector,
Sivagangai, Sivagangai District.
2. The Thasildar
Sivagangai Taluk, Sivagangai District.
3. The Block Development Officer
Sivagangai Panchayat Union,
Sivagangai District.
4. M.Gandhi

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned eviction order of the third respondent in his proceedings in NA.KA.B4/715/18, dated 14.05.2018.



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For Petitioner : Mr.J.Jeyakumaran
For Respondent Nos.1 & 2 : Mr.V.Nirmal Kumar
Government Advocate
For Respondent Nos.3 & 4 : No Appearance

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The petitioner has filed this writ petition challenging the impugned eviction order of the third respondent in his proceedings in NA.KA.B4/715/18, dated 14.05.2018.

2. The writ petition is of the year 2018. But, no counter affidavit has been filed by the respondents till date. Therefore, we are constrained to take up the writ petition for final disposal and pass orders, based on the available materials.

3. Earlier one Mr.G.Gandhi, filed a writ petition before this Court in W.P(MD)No.19908 of 2013, seeking for a direction to remove the encroachment made by the petitioner herein in a public road, wherein this Court has directed the third respondent Block Development Officer to survey



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the entire area after notice to the petitioner therein and the petitioner herein with the assistance of the survey team and based on the survey, directed to proceed in accordance with law. Pursuant to the said order, the impugned eviction notice, dated 26.09.2018, has been issued by the third respondent for removal of encroachment alleged to have been made by the petitioner in the public road. But, no material has been produced before this Court to show that survey has been conducted before proceeding with the removal of encroachment.

4. In view of the same, we have no hesitation to come to the conclusion that the aforesaid order passed by the third respondent is contrary to the order passed by this Court in W.P(MD)No.19908 of 2013, dated 14.03.2018. Since the said order of this Court has not been complied with, we are inclined to set aside the impugned order passed by the third respondent, dated 14.05.2018.

5. In the result, the writ petition is allowed and the impugned order of the third respondent, dated 14.05.2018, is set aside. The third respondent is directed to take necessary action for removal of encroachment after strictly complying with the directions of this Court in Paragraph No.4 of the order



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dated 14.03.2018 made in W.P(MD)No.19908 of 2013. Such exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

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

27.02.2024

NCC : Yes / No
Index : Yes / No
PM

To

1. The District Collector,
Sivagangai, Sivagangai District.
2. The Thasildar
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Sivagangai District.



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D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

PM

ORDER MADE IN
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DATED : 27.02.2024