



**W.P.(MD) No.24244 of 2018**

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

**DATED : 06.09.2024**

**CORAM:**

**THE HON'BLE MR.D.KRISHNAKUMAR, ACTING CHIEF JUSTICE  
and  
THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ**

**W.P.(MD) No.24244 of 2018**

Mangala S.Jawaharlal

... Petitioner

-VS-

1.The State of Tamil Nadu  
rep.by its Principal Secretary  
Municipal and Administration Department  
Fort St.George, Chennai-09

2.The Commissioner  
Tirunelveli City Municipal Corporation  
Tirunelveli, Tirunelveli District

3.S.Poornima

4.Balaganesan

5.Gunasekaran

6.J.Kumar  
[R6 is impleaded vide Court order  
dated 31.01.2019 in W.M.P.(MD)  
No.529 of 2019]

... 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 records of the second respondent's proceedings in Na.Ka.No.TP2/10769/2016 dated 14.07.2018 and quash the same as non-application of mind and without following the due process of law under the Tirunelveli City Municipal Corporation Act, 1994 r/w Sections 256 and 258 of the Coimbatore City Municipal Corporation Act, 1981 and consequently direct the respondents 1 & 2 to remove the encroachment made by the respondents 3 to 5 in the public street in T.S.No.177, Kamaraj Nagar, Tirunelveli-Tuticorin Highway, Palayamkottai, Tirunelveli District.

For Petitioner : Mr.Ananth C.Rajesh

For Respondents : Mr.P.Thilakkumar  
Government Pleader for R1  
Mr.Aayiram K.Selvakumar for R2  
No appearance for R3 & R4  
Mr.J.Ashok for R5  
Mr.N.Mohideen Basha for R6

### **ORDER**

**[Order of the Court was made by The Hon'ble ACTING CHIEF JUSTICE]**

The order dated 14.07.2018, passed by the passed by the second respondent, rejecting the request of the petitioner for removal of encroachments made by the private respondents in the subject land, on the ground that it is a ryotwari patta land, is under challenge in this writ petition.



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**2.** According to the petitioner, the subject land is a road and the private respondents have made encroachments therein causing obstructions to the general public. However, the second respondent, without taking into consideration the said fact, has passed the impugned order rejecting the petitioner's claim.

**3.** The second respondent has filed a report, dated 22.01.2019, stating that the T.S.No.177, which was originally subdivided from the Old Survey No.679, is now classified as Rayath Manai, which stands in the name of A.Thangaiya Nadar, Dharmaraj, Karuppiyah Nadar and the legal heirs of Thangaiah Nadar, as per the revenue records. The same is now used as eastern pathway situated on east-west direction to the distance of 32.8 Meters in length and 4.60 Meters in width. In western side of the said eastern pathway, there are two sheds i.e., asbestos sheeted roof and thatched roof sheds, each to an extent of 6 X 4 Meters and 5.40 X 4 Meters. There is no building permission for the said sheds and no tax has been assessed for the said building by the Corporation. Hence, these two sheds are unauthorized sheds, which cause hindrance to the general public.



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4. Learned counsel appearing for the sixth respondent would submit that the subject land is a ryotwari land.

5. Though the sixth respondent claims that the subject property is a ryotwari land, no revenue record has been produced before this Court to substantiate the said claim.

6. Taking into consideration the facts and circumstances of the case, the second respondent is directed to conduct a survey in the subject land with the assistance of the Surveyor, after giving due notice and sufficient opportunity to all the parties concerned and ascertain whether it is a ryotwari land or it is a road. If it is found that the private respondents have made encroachments in the subject land, the same shall be removed in accordance with law, after providing due opportunity to the parties concerned. Such an exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.



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**7.** With the above directions, the writ petition is disposed of. No costs.

**[D.K.K., A.C.J.] [M.S.Q., J.]**

**06.09.2024**

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

krk

To:  
The Principal Secretary,  
Municipal and Administration Department,  
State of Tamil Nadu,  
Fort St.George, Chennai-09.



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**D.KRISHNAKUMAR, A.C.J.**  
**and**  
**MOHAMMED SHAFFIQ, J.**

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