



W.P.(MD)No.22220 of 2024

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

DATED : 23.09.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN**

W.P.(MD)No.22220 of 2024

Abel Gunaseelan

... Petitioner

versus

1.The District Collector (The State Monitoring Authority),
Office of the Collectorate Building,
Trichy

2.The Corporation Commissioner,
Trichy Corporation Office,
Trichy.

3.The Revenue Divisional Officer,
Office of the Collectorate Building,
Trichy

4.The Tahsildar,
Trichy East,
Town Hall,
Trichy.

5.S.Palraj

6.Anbumani

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus directing the 2nd respondent to adhere the order passed in WP(MD)No.24169 of 2019 so as to remove the illegal encroachment of car shed and constructed building in the public pathway road in Town Survey No.46, situated opposite side of the petitioner's house property at No.17/39A, New Street, Kaja Pettai, Trichy within time frame as fixed by this Court by considering the representation dated 14.02.2024 and 16.03.2024.

For Petitioner	: Mr.D.S.Haroon Rasheed
For R1,R3 & R4	: Mr.P.T.Thiraviyam Government Advocate
For R2	: Mr.K.R.Kishore Ram for M/s.RB Law Associates

ORDER

(Order of the Court was made by **R.SUBRAMANIAN, J.**)

The grievance of the petitioner is that despite specific direction given in W.A(MD)No.24169 of 2019 directing the 2nd respondent Corporation to remove the encroachment made by the respondents 5 and 6, the Corporation has not taken any steps to implement the said order.

2. Since we are not passing any positive direction, notice to the respondents 5 and 6 is deemed unnecessary.



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3. Finding that the order dated 15.11.2019 has not been complied with, on 19.09.2024 we had required the learned counsel for the Corporation to get instructions.

4. Mr.K.R.Kirshore Ram, the learned counsel for the Corporation would submit that notices have been issued by the Corporation to the encroachers calling upon them to show cause why the encroachment should not be removed.

5. During the course of the hearing, the learned counsel for the Corporation has brought to our notice a judgment of the learned District Munsif made in O.S.No.144 of 1993 on 23.12.1997, wherein a decree for injunction was sought for against the Corporation from interfering with the possession of the plaintiff, who is the father of the 5th respondent. We find that the said judgment is a fully contested one and the learned District Munsif has held that the property, which is subject matter of the suit, namely, the land in T.S.Nos.48 and 46, does not vest with the Corporation and it is a Government land. On the said finding, the learned District Munsif has granted a decree for permanent injunction against the Corporation restraining them from removing the encroachment. Admittedly, this



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decree has become final and it is in operation now. Therefore, the Corporation cannot now seek to remove the encroachment.

6. However, admittedly, the land in question has been classified as the Government poramboke. Therefore, the Government is the absolute owner. It will be open to the Government to take action for removal of encroachment. We therefore, direct the Tahsildar, Trichy East, the 4th respondent herein, to take appropriate action to remove the encroachment after issuing notice to the respondents 5 and 6 under the Provisions of the Tamil Nadu Land Encroachment Act, 1905, and after conducting due enquiry. The said proceedings shall be initiated within a period of four weeks from the date of receipt of a copy of this order and shall be completed within a period of twelve weeks thereafter.

7. With the above direction, this Writ Petition is disposed of. No costs.

(R.S.M., J.) (S.M., J.)
23.09.2024

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

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