



W.P(MD)No.23790 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.10.2024

CORAM :

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P(MD)No.23790 of 2024
and
WMP(MD)Nos.20130 and 20131 of 2024**

Gurusamy

... Petitioner

vs.

1. The District Collector / Chairperson,
District Monitoring Committee,
Tenkasi District,
Tenkasi.

2. The Revenue Divisional Officer,
Tenkasi District,
Tenkasi.

3. The Tahsildar,
Sankarankoil Taluk,
Tenkasi District.

4. The Block Development Officer,
Sankarankoil,
Tenkasi District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned order dated 27.09.2024, in Na.Ka.No.COLR-2497-2024-H1, passed by the 1st respondent and quash the same.



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For Petitioner : Mr.T.Veerakumar

For Respondents : Mr.S.P.Maharajan
Special Government Pleader

ORDER

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

Challenge in this Writ Petition is to the proceedings launched under the Tamil Nadu Land Encroachment Act, 1905.

2. It is the claim of the petitioner that the house constructed by him in Survey Nos.1234/10 and 12 is within his landholding and there is no encroachment over the Street. Reliance is placed by the petitioner on the fact that the Municipal drainage is constructed outside the house. The authorities would, however, contend that the petitioner has encroached upon an extent of about 8 square meters over the road in Survey No.1234/1.

3. It is stated that the width of the road is about 13 feet and the encroachment made by the petitioner is to an extent of 0.8 meters, which is roughly about 2 feet. Of course, the authorities have conducted a survey and have found that there is an encroachment.



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4. We also concur with the conclusion of the authorities that there is an encroachment. We, however, find that if the portion of the house of the petitioner, which is found to be encroaching upon, a very meagre portion of the road, measuring about 86 square feet is removed, his whole house will be without an entry and the stair case leading to the first floor and the open terrace above it will also be affected. We also examined the Topo Sketch and we find that the road on the west of the petitioner's house is much narrower than the road that abuts the petitioner's house. It is also seen that immediately on the east of the house is Survey No.1234/14, which extends about 0.08 meters towards north beyond the petitioner's property in Survey Nos.1234/10 and 12.

5. From the physical features, we find that the encroachment of the petitioner would not affect the alignment of the road and it will not prove to be a hindrance to flow of traffic. In such circumstances, Clause 10 of the Revenue Standing Order 26 of the Board of Revenue empowers the Revenue Department as well as the Local Authorities to ignore certain types of encroachments, which would not be objectionable.

6. From the physical features as well as the survey plan that has been produced, we are of the considered opinion that the encroachment in question



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can very well be treated as an unobjectionable encroachment, which could be ignored under Clause 10(i)(a) of the Revenue Standing Order 26 of the Board of Revenue.

7. We, therefore, treat the encroachment as an encroachment that could be ignored, allow the Writ Petition and quash the orders of the authorities, directing removal of encroachment. We make it clear that this order will not be treated as a precedent, as it has been passed by taking note of the peculiar circumstances of the case in hand. No costs. Consequently, connected Miscellaneous Petitions are closed.

(R.S.M, J.) (L.V.G, J.)
15.10.2024

Index : No
Neutral Citation : No
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To

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R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

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ORDER MADE IN
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