



W.P(MD)No.25786 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2024

CORAM:

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

**W.P(MD)No.25786 of 2019
and
W.M.P(MD)No.22317 of 2019**

G.Muthuraman

... Petitioner

VS.

- 1.The Director of Town and Country Planning,
Chennai.
- 2.The Deputy Director of Town and Country Planning,
Madurai Region,
No.4, Hakkem Ajmalkhan Road,
Chinna Chokkikulam,
Madurai.
- 3.The Commissioner,
Madurai Corporation,
Anna Maligai,
Madurai.
- 4.Sugumaran
- 5.V.Alagappan
- 6.A.Jegadeeswaran

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbearing the respondents 4 to 6 from encroach into the road and the open space reserve in T.S.No.73, Old Survey No.75/1P, S.No.75/1 in Indu Nagar in S.Kodikulam, Tallakulam Village in Madurai Town, belonged to the third respondent on the pretext of the illegal revised Town survey sketch by realigning the road without any proceeding and to preserve the same.

For Petitioner	: Mr.R.Suriyanarayanan
For Respondent Nos.1 & 2	: Mr.T.Amjad Khan Government Advocate
For Respondent No.3	: Mr.K.K.Kannan
For Respondent No.4	: No appearance
For Respondent Nos.5 & 6	: Mr.S.A.Ajmal Khan

ORDER

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

The petitioner has filed the present Writ Petition for issuance of a Writ of Mandamus, forbearing the respondents 4 to 6 from making encroachments in the road and the open space reserve in T.S.No.73, Old Survey No.75/1P, S.No.75/1 in Indu Nagar in S.Kodikulam, Tallakulam Village in Madurai Town, belonged to the third respondent.

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2. According to the petitioner, the respondents 4 to 6 have encroached the above mentioned property.

3. The second respondent has filed a counter-affidavit wherein it is stated as follows:

'In accordance with G.O(Ms)No.154, dated 13.10.2020, the power of planning permission was also delegated to local bodies in addition to already delegated power to curb unauthorized building construction. Now both the power of planning permission and building license for residential buildings built-up area upto 10,000 sq.ft comes under the Local Bodies except Chennai. The said unauthorized construction mentioned in the Writ Petition comes under this delegated power for both planning permission and building license.'

4. The learned Government Advocate appearing for the respondents 1 and 2 submitted that both the administrative power for planning permission and executive power to curb the unauthorized development, the competent authority is the third respondent.

5. The learned counsel appearing for the third respondent- Corporation, on instructions, submitted that respondents 4 to 6 have



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encroached upon the abovesaid property and notices have been served to the aforesaid encroachers for eviction. Since the Writ Petition is pending before this Court, no further action has been taken by the third respondent Corporation. If any appropriate order has been passed, the authority concerned will take necessary action in the aforesaid property in question, which is specifically earmarked for open space reserve.

6.Considering the fact that the said property which is earmarked for open space reserve as per the approved lay out, the third respondent Corporation shall proceed with the eviction process, after issuing notice to the petitioner and respondents 4 to 6 and shall take necessary action for removal of the encroachment, after affording an opportunity of hearing to all the parties concerned and by following due process of law. Such an 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.]
02.01.2024

NCC : Yes / No
Index : Yes / No
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