



W.P(MD)No.16663 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2024

CORAM:

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

W.P(MD)No.16663 of 2017

P.Ponnupandi

... Petitioner

VS.

1.The District Revenue Officer,
Office of the District Revenue Officer,
Madurai District,
Madurai.

2.The Tahsildar,
Office of the Tahsildar,
Madurai South,
Madurai District.

3.K.Jeyakodi

4.Nesm Jayavathi

5.The Commissioner,
Madurai Municipal Corporation,
Anna Maligai,
Madurai.

... Respondents

(R – 5 is impleaded vide order dated 23.01.2023
in W.M.P(MD)No.316 of 2023)



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the entire records connected with the order in K.Dis.No.16606/2017/J4 passed by the first respondent dated 18.08.2017 and to quash the same, consequently directing the respondents 1, 2 and 5 to remove the encroachments in Survey No.361/10 made by the respondents 3 and 4.

*(Prayer amended vide order dated 09.01.2023
in W.M.P(MD)No.328 of 2023)*

For Petitioner : Mr.S.Malaikani

For Respondent Nos.1 & 2 : Mr.N.Satheesh Kumar
Additional Government Pleader

For Respondent Nos.3 & 4 : Mr.H.Arumugam

ORDER

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

The petitioner has filed the present Writ Petition to quash the order passed by the first respondent in K.Dis.No.16606/2017/J4, dated 18.08.2017 and consequently to direct the respondents 1, 2 and 5 to remove the encroachments in Survey No.361/10 made by the respondents 3 and 4.

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2.By the impugned order, the District Revenue Officer, Madurai, has rejected the request of the petitioner for removal of encroachment in the subject property as it is not an approved layout and the respondents 3 and 4 have not donated any land for the Municipality/Corporation for road purpose.

3.According to the petitioner, there is a pathway in the subject land and it has been used by the residence of the locality. However, the respondents 3 and 4 have made encroachments obstructing the pathway. Therefore, the reasons adduced by the District Revenue Officer, Madurai are totally unsustainable.

4.The learned Additional Government Pleader appearing for the respondents 1 and 2, on instructions, would submit that the property in question is an unapproved lay out and unless and until, the land owners donates any piece of land for the road purpose to the Municipality/Corporation, no further action will be initiated for removal of the encroachment.



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5.The fourth respondent, on behalf of the third respondent, filed a counter-affidavit refuting the allegation made by the petitioner.

6.Considering the submissions made on either side, the contention of the petitioner seeking for removal of encroachment in the unapproved lay out would not be considered in the present Writ Petition. Therefore, the only remedy open to the petitioner is to approach the appropriate forum in the manner known to law. Though the petitioner claimed that a house has been constructed by the respondents 3 and 4 and the pathway has been encroached upon by them, it is open to the petitioner to approach the appropriate forum to get the relief in accordance with law. According to the respondents, the said property belongs to the private concern and the lay out has not been approved. If there is any approved layout, then the pathway has to be considered by the Municipality/Corporation. However, no material has been placed by the petitioner before this Court to establish that the layout is approved by the authority concerned.



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7.Under such circumstances, we are not inclined to entertain the Writ Petition. Accordingly, the Writ Petition is dismissed. However, it is open to the petitioner to work out his remedy in the manner known to law, if he is so advised. No costs.

[D.K.K.,J.] [R.V.,J.]
08.02.2024

NCC : Yes / No
Index : Yes / No
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ps

ORDER MADE IN
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