



W.P(MD)No.4128 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 19.06.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND**

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.P(MD)No.4128 of 2024

and

W.M.P.(MD) No.3980, 3982 & 8953 of 2024

P.Ponganesh

... Petitioner

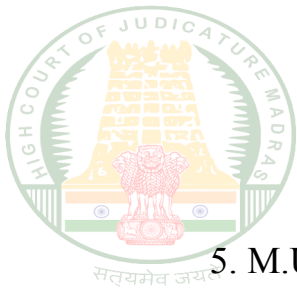
Vs

1. The District Collector,
Office of the District Collector,
Madurai District.

2. The Commissioner,
Office of the Commissioner,
Madurai Corporation,
Madurai.

3. The Assistant Commissioner,
Office of the Assistant Commissioner,
Madurai Corporation,
Madurai.

4. The Tahsildar,
Office of the Tahsildar,
Madurai North,
Madurai District.



W.P(MD)No.4128 of 2024

5. M.Udhayakumar

... Respondents

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records connected with the Impugned Notice issued by the respondent no. 3 in No. L1/005427/2023 dated 02.01.2024 and quash the same as illegal, consequently forbear the respondent no. 2, 3 from evicting the petitioner and his family members from the dwelling house situating in Survey no. 29/3-7, Vilangudi Bit II, Madurai North Taluk, Madurai District.

For Petitioner	:	Dr.R.Alagumani,
For Respondent	:	Mr.M.Sarangan (R1 & R4) Additional Government Pleader
	:	Mr.S.Vinayak (R2 & R3) Standing Counselling
	:	Mr.M.Mahaboob Fazil (R5)

ORDER

[Order of the Court was made by S.M.SUBRAMANIAM, J.]

The notice for removal of encroachment issued by the Commissioner, Madurai Corporation, dated 02.01.2024 is under challenge in the present writ proceedings.

2/7



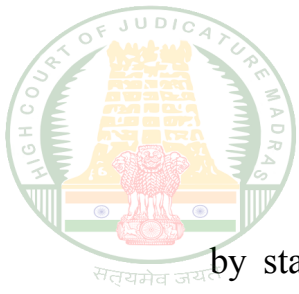
W.P(MD)No.4128 of 2024

WEB COPY

2.The learned Counsel for the petitioner would mainly contend that the petitioner has been issued with anubantham patta and constructed a house by obtaining proper permission. Therefore, he cannot be construed as an encroacher. The petitioner has relied on certain registered sale deed and other documents and contended that the petitioner is the owner of the property and not an encroacher.

3.The learned Standing Counsel for Madurai Corporation would submit that the Corporation authority with the assistance of the revenue authorities verified the records which would show that anubantham patta produced by the petitioner is not relating to the subject property, wherein, unauthorized constructions are put up. Thus notice has been issued for removal of encroachment. That apart building plan permission has not been granted by the competent authority. The petitioner instead of submitting explanation, has chosen to file the writ petition and therefore, the writ petition is to be rejected.

4.The learned Counsel for the fifth respondent would also oppose



W.P(MD)No.4128 of 2024

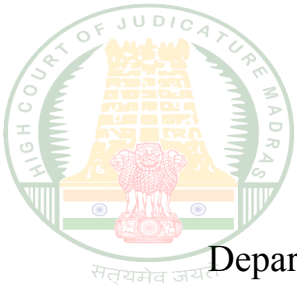
WEB COPY

by stating that the petitioner is attempting to protect the unauthorized constructions by producing the documents which are not matching with the revenue records. Even as per the authorities the documents produced by the petitioner would not show that he has obtained due building plan permission from the competent authority and therefore, the action initiated is in accordance with law.

5.Heard the parties.

6.This Court is of the considered view that such an adjudication cannot be entertained by the High Court in a writ proceeding which has been filed challenging the very notice. No writ against the notice is entertainable unless it has been issued by an authority having no jurisdiction.

7.In the present case, the petitioner has produced certain documents which requires scrutinization. The authorities are bound to verify the genuinity of those documents including the objections filed by the fifth respondent with reference to the revenue records available in the



W.P(MD)No.4128 of 2024

WEB COPY

Department and the Corporation. However, in the event of identifying unauthorized constructions or encroachments, the authorities are bound to continue the enforcement action and demolish the unauthorized construction and evict the encroachers from the public property and resume the public property for the public usage. However High Court cannot decide the disputed facts of this nature, wherein, the parties have produced some documents which requires examination and also the genuinity of those documents also to be verified. In the event of any fraud or manipulation even criminal prosecution sought to be initiated against the persons who are involved in such activities.

8.In view of the facts and circumstances, the petitioner is at liberty to submit his explanation along with documents, if any, to the second respondent/Commissioner, Madurai Corporation, within a period of ten days from the date of receipt of a copy of this order. On receipt of any such representation from the petitioner, the competent authority shall conduct an enquiry and thereafter, take a decision and continue enforcement action, if the buildings are identified as unauthorized or encroachments are found. The entire exercise is directed to be completed



W.P(MD)No.4128 of 2024

within a period of twelve weeks from the date of receipt of a copy of this order.

WEB COPY

9. With the above direction, the writ petition stands disposed of.

There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

[S.M.S., J.] [A.D.M.C., J.]
19.06.2025

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

To

1. The District Collector,
Office of the District Collector,
Madurai District.

2. The Commissioner,
Office of the Commissioner,
Madurai Corporation,
Madurai.

3. The Assistant Commissioner,
Office of the Assistant Commissioner,
Madurai Corporation,
Madurai.

4. The Tahsildar,
Office of the Tahsildar,
Madurai North, Madurai District.

6/7



WEB COPY



W.P(MD)No.4128 of 2024

S.M.SUBRAMANIAM, J.
and
DR.A.D.MARIA CLETE, J.

LR

W.P(MD)No.4128 of 2024

19.06.2025