



W.P.(MD).No.8753 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.08.2025

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

W.P.(MD).No.8753 of 2019

K.Kannan

... Petitioner

Vs.

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The Commissioner,
Madurai Corporation,
Madurai.
- 3.The Assistant Commissioner,
Block-IV, Madurai South,
Madurai.
- 4.The Tahsildar,
Madurai South,
Madurai.
- 5.The Land Surveyor,
Madurai South,
Madurai.
- 6.M.Ramalingam



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7.M.Murugesan

... Respondents

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, directing the respondents No.1 to 5 to remove the encroachment made by the respondents No.6 and 7 in Old S.No.147/1A, Town S.No.104, Block No.60, Survey Ward-IV, Madurai Corporation Ward-77, Madurai on the basis of the representation of the petitioner dated 18.01.2019 in accordance with law within the time stipulated by this Court.

For Petitioner : Mr.P.R.Prithviraj

For R-1, R-4 & R-5: Mr.P.Thilak Kumar
Government Pleader

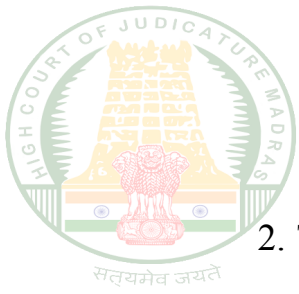
For R-2 & R-3 : Mrs.S.Devasena
Standing Counsel

For R-6 : No appearance

ORDER

(Order of the Court was made by G.ARUL MURUGAN, J.)

The Writ Petition is filed for Mandamus seeking to direct the respondents 1 to 5 to remove the encroachments made by the respondents 6 and 7 in Old Survey No.147/1A, Town S.No.104, Block No.60, Survey Ward-IV, Madurai Corporation Ward-77, Madurai on the basis of the representation of the petitioner dated 18.01.2019.



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2. The learned Standing Counsel appearing for the Corporation has filed a counter affidavit and in paragraph 5 of the counter affidavit, it is stated that the portion of the land, in respect of which the petitioner seeks for removal of encroachment, is a private patta land. If at all the petitioner is having any grievance and he is claiming any easmentary right, it is for him to adjudicate the issues before the appropriate Civil Court of law. Paragraph 5 of the counter reads as under:

“5. An enquiry was conducted and found that it is a Patta land. It may be a Common lane where the Petitioner may have an easmentary right. That has to be established before Civil Court by adducing evidence. The fact in dispute cannot be adjudicated under Article 226 of Constitution of India. As per the records found in the Corporation the disputed land is a ryotwari land. It is to be mentioned here Town Survey Nos:99, 100, 101, 102, 103, 105, 106 in recorded as Sundarrasukatti Naidu house. The Town Survey No. 104, the disputed place is shown as Sundararasukatti Naidu lane. The Corporation has no jurisdiction over the private lane.”

3. If at all there is any encroachment, then the respondent Corporation, who is the competent authority, are bound to take appropriate action as against the encroachments. However, in the instant Writ Petition, the issue is raised in respect of the particular survey number, where it is reported that it is a private



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patta land and if at all the petitioner has any right or grievance, it is for him to adjudicate the issues before the competent Civil Court. Accordingly, factual issues, where the disputed facts are involved, cannot be adjudicated in a Writ Petition under Article 226 of the Constitution of India.

4. In view of the above, the Writ Petition stands dismissed. There shall be no order as to costs.

(S.M.S.,J.) (G.A.M.,J.)
11.08.2025

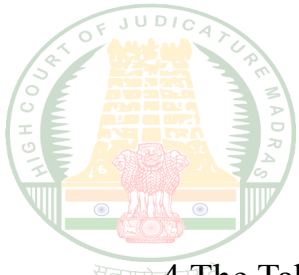
NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To

1.The District Collector,
Madurai District,
Madurai.

2.The Commissioner,
Madurai Corporation,
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3.The Assistant Commissioner,
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and
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