

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :05.04.2023

CORAM :

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

**W.P(MD)No.7883 of 2023
and
WMP(MD)No.7303 of 2023**

Rengasamy

... Petitioner

VS.

1. The District Collector,
Dindigul District.

2. The Tashildhar,
Palani Taluk,
Dindigul District.

3. The Block Development Officer,
Thoppampatti Union Panchayat,
Dindigul District.

4. The President,
Puliyampatti Panchayat,
Palani Taluk,
Dindigul District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records pertaining to the order of the 4th respondent passed an impugned notice dated 01.04.2023 and quash the same as illegal.

For Petitioner : Mr.D.Venkatesh
For R1 to R4 : Mr.V.Nirmal Kumar
Government Advocate

ORDER

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

Challenge is to the notice issued by the President, Puliampatti Panchayat, to the petitioner informing him that a survey will be conducted to identify the alleged encroachment made by the petitioner in Survey No.431/8 which has been classified as street. The said letter also warns the petitioner that the encroachment, if any, would be removed with the help of the police.

2. Heard Mr.V.Nirmal Kumar, learned Government Advocate appearing for the respondents.

3. It is clear that the second part of the notice which threatens removal of encroachment with the help of the police is in excess of the authority of the President of the Panchayat. Under Section 131(2) of the Tamil Nadu Panchayats Act, 1994, the Panchayat President has no power to remove a encroachment and he

can only address the Revenue Tahsildar for removal of encroachment under the Tamil Nadu Land Encroachment Act, 1905.

4. In view of the same, the latter part of the notice, namely,

"அன்றைய தினம் ஆக்கிரமிப்பு இருப்பது கண்டறியப்படின் காவல்துறையின் ஒத்துழைப்புடன் ஆக்கிரமிப்பு அகற்றம் செய்யப்படும் எனத் தெரிவிக்கப்படுகிறது."

is set aside. The respondents are directed to proceed with survey and if any encroachment is found, it is open to them to take steps to remove the encroachments by taking recourse to the appropriate statute.

5. The Writ Petition is disposed of accordingly. No costs. Connected miscellaneous petition is closed.

(R.SUBRAMANIAN, J.) & (L.VICTORIA GOWRI, J.)
05.04.2023

Index : Yes / No
Internet : Yes
Neutral Citation : Yes / No
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R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

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ORDER MADE IN
W.P(MD)No.7883 of 2023
DATED : 05.04.2023