



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2018

CORAM :

**THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY**

W.P(MD)No.8279 of 2018
and
W.M.P(MD)No.7850 of 2018

Saraswathi

... Petitioner

vs.

1. The District Collector,
Dindigul, Dindigul District.
2. The Block Development Officer,
Dindigul Panchayat Union,
Dindigul, Dindigul District.
3. The Tahsildar,
Dindigul East Taluk
Dindigul District.
4. The Commissioner,
Panchayat Union,
Dindigul East Taluk
Dindigul District.

... Respondents

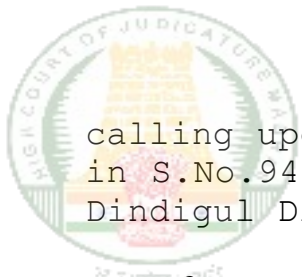
Prayer : Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the entire records relating to the impugned memorandum issued by the 2nd respondent dated 06.04.2018 in Na.Ka.No.266/2017/A5 and quash the same.

For Petitioner	: Mr.A.Saravanan
For Respondents	: Mr.C.Ramar
	Additional Government Pleader

O R D E R

(Order of the Court was made by T.RAJA, J.)

This writ petition is directed against the impugned order dated 06.04.2018 of the 2nd respondent in Na.Ka.No.266/2017/A5



calling upon the petitioner to remove the encroachment made by her in S.No.94/1 situate at Thattanoothu Village, Dindigul East Taluk, Dindigul District.

2. Learned counsel for the petitioner would submit that the impugned proceedings has been issued by the second respondent based on an order dated 05.01.2017 passed in W.P.(MD) No.134/2017, which has been filed by the neighbour of the petitioner Mr.Periyasamy for issuance of a writ of Mandamus directing the Tahsildar, Dindigul East Taluk, the second respondent therein to evict the encroachment made by the petitioner/fourth respondent therein in S.F.No.94/1. This Court has also passed an order on 05.01.2017 directing the Tahsildar, Dindigul East Taluk, to consider the case of the petitioner therein. As no notice was issued to the petitioner herein, she has also given a representation for issuance of a patta in respect of the land covering in S.F.No.94/1 at Thattanoothu Village, Dindigul. Finding no response, she has filed a Writ Petition in W.P.(MD) No.8120/2018 seeking a writ of Mandamus for issuance of a patta in respect of the land in question. However, till date, no order has been passed and the said writ petition is pending. In the meanwhile, it is the case of the petitioner that the impugned order ought not to have been issued against the petitioner. Hence, challenging the same, the petitioner is before this Court with this petition.

3. Learned counsel for the petitioner would further submit that the petitioner is the owner of the property in S.F.No.94 and the land covered in S.F.No.94/1 is no way belongs to her.

4. We are unable to appreciate the said contentions made by the petitioner for the following reasons:

(i) It is the case of the petitioner that the land in S.F.No.94/1 does not belong to her. When that being so, she cannot assert any right over the said property.

(ii) When there was an order passed by this Court on 05.01.2017 in W.P.(MD) No.134/2017, which was filed by one Mr.Periyasamy against the petitioner for removal of encroachment made in S.F.No.94/1 as mentioned above, this Court has also given a direction directing the Commissioner, Panchayat Union, Dindigul East Taluk, to take appropriate proceedings, if there is objectionable encroachment in S.F.No.94/1, by evicting the encroachment, under due process of law within two months. Therefore, when the impugned notice has been issued based on the direction issued by this Court on 05.01.2017 in W.P.No.134/2017, the petitioner cannot come before us again without documents and without approaching the Block Development Officer, the second respondent herein and hence, the petitioner is directed to treat the impugned order as a notice served on her and two weeks time is granted to the petitioner to give her explanation to the said



notice along with necessary documents and on receipt of such explanation, the Commissioner, Dindigul Panchayat Union, is directed to consider the same pass appropriate orders on merits and in accordance with law.

5. With the aforesaid observations and direction, the writ petition is disposed of. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The District Collector,
Dindigul, Dindigul District.
2. The Block Development Officer,
Dindigul Panchayat Union,
Dindigul, Dindigul District.
3. The Tahsildar,
Dindigul East Taluk
Dindigul District.
4. The Commissioner,
Panchayat Union,
Dindigul East Taluk
Dindigul District.

+ 1 CC TO Mr.A.SARAVANAN, ADVOCATE IN SR No. 78115

RR
TE/RP/SAR-1 : 03/09/2018 : 3P/6C

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W.M.P (MD) No.7850 of 2018
10.08.2018