



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.05.2018

CORAM:

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**THE HONOURABLE MR.JUSTICE M.GOVINDARAJ
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P. [MD].No. 10671 of 2018
and
W.M.P. (MD)No. 9762 of 2018**

G. Mani : Petitioner

Vs.

1. The Block Development Officer (Village Panchayat),
Nilakkottai Panchayat Union,
Nilakkottai.
 2. The Special Officer/BDO,
Mattapparai Panchayat,
Nilakkottai Panchayat Union,
Nilakkottai.
- : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Order dated 20.04.2018 in Na.Ka.No.3437/2017/thi3 on the file of the first respondent and quash the same.

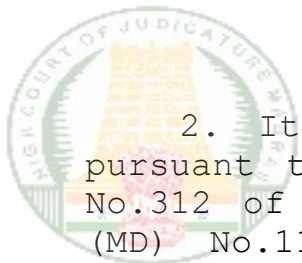
For Petitioner : Mr. G. Prabhu Rajadurai

For Respondents : Mr.Muruganantham
Additional Government Pleader.

**O R D E R

[Order of the Court was made by G.R.SWAMINATHAN, J.]

The Writ petitioner questions the impugned order dated 20.04.2018 issued by the first respondent, calling upon the Writ petitioner to remove the encroachment in question within a period of 30 days. The impugned order reads that if the petitioner does not clear the encroachment on his own, coercive action would be taken and that the cost incurred in that regard would be collected from the writ petitioner.



2. It is seen that the impugned order came to be passed pursuant to the earlier order dated 26.03.2018 made in W.P.(MD) No.312 of 2018. Likewise, earlier, one Ramesh had filed Crl.O.P (MD) No.11192 of 2012 before this Court and an order dated 15.09.2014 was passed therein.

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3. It is true that the impugned proceedings have been taken pursuant to the earlier direction given by this Court. But, this Court at no point of time, directed the respondents to bypass the statutory procedure or disregard the principles of natural justice. In this case, the petitioner is in occupation of a certain extent of land. The said occupation may be illegal, but then, the authority ought to put the petitioner on notice and only thereafter, take action. In this case, the impugned order discloses the element of predetermination on the part of the authorities.

4. In such view of the matter, the order impugned in this writ petition, is set aside and it is open to the respondents to issue notice to the Writ petitioner and after getting his explanation, pass orders afresh and take action in accordance with law.

5. With these observations and granting liberty to the authorities, the Writ petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Block Development Officer (Village Panchayat),
Nilakkottai Panchayat Union, Nilakkottai.

2. The Special Officer/BDO,
Mattaparai Panchayat,
Nilakkottai Panchayat Union,
Nilakkottai.

+ 1 cc TO Mr.G.Prabhu Rajadurai, Advocate in SR No. 65183

ksa/RR

AE/SV MMS/SAR1/08.06.2018/2P/4C