



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.06.2018

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CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.P.(MD)No.11789 of 2018
and
W.M.P.(MD)No.10704 of 2018

Dr.E.John Kuzhanthai,
The Correspondent,
Annai Velakanni College,
Tholaiyavattam,
Kanyakumari District.

...Petitioner

-Vs-

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Sub Collector,
Padmanabapuram,
Kanyakumari District.

3.The Additional Collector / Director of Planning,
District Rural Development Agency,
Nagercoil, Kanyakumari District.

4.The Commissioner,
Panchayat Union Council,
Killiyoor,
Kanyakumari District.

...Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the 4th respondent in his proceedings Na.Ka.No.A/4/3087/14 dated 25.05.2018 and quash the same.

For Petitioner : Mr.R.Manimaran

For Respondents : Mr.VR.Shanmuganathan,
Special Government Pleader.

ORDER

(Order of the Court was made by M.V.MURALIDARAN, J.)

The petitioner seeks for a Writ of Certiorari, to call for the records relating to the impugned order passed by the 4th respondent/Commissioner in her proceedings in Na.Ka.No.A/4/3087/14, dated 25.05.2018 and to quash the same.

2. Mr.VR.Shanmuganathan, learned Special Government Pleader takes notice on behalf of the respondents. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. The petitioner's College is situated in Survey No.17/6 in Mullanginavilai Village, Killiyoor Panchayat and the same is running for more than 32 years. The 4th respondent/Commissioner has issued the impugned order dated 25.05.2018, which was challenged by the petitioner on the ground that as per Section 130 of Tamil Nadu Panchayats Act, 1994, the Commissioner has no right to pass the present impugned order and he has a right only to intimate the petitioner to remove the encroachment within the time stipulated, failing which he has to direct the Revenue Authorities viz., Tahsildar, to take appropriate action against the petitioner for eviction.

4. In the impugned order, it is made clear that if the petitioner failed to remove the encroachment, the 4th respondent/Commissioner will take action for evicting the petitioner from the alleged encroachment with the help of the police and Revenue Officials. The very wording used by the 4th respondent/Commissioner is totally against the Tamil Nadu Panchayats Act, 1994 and she has no right to pass such order.

5. The learned Special Government Pleader pointed out that as per Section 130 of the Tamil Nadu Panchayats Act, 1994, the Revenue authorities have right to take appropriate action against the petitioner for eviction.

6. Considering the arguments advanced on both sides, we are inclined to pass the following order:-

"This writ petition is allowed by setting aside the impugned order dated 25.05.2018. The 4th respondent/Commissioner, is directed to pass appropriate orders as per the Tamil Nadu Panchayats Act, 1994. Such exercise shall be done within a period of three months from the date of receipt of a copy of this order. Till such time, the respondents are directed not to take any coercive action against the petitioner."



7.No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

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Sub Assistant Registrar

To

- 1.The District Collector,
Kanyakumari District,
Nagercoil.
- 2.The Sub Collector,
Padmanabapuram,
Kanyakumari District.
- 3.The Additional Collector / Director of Planning,
District Rural Development Agency,
Nagercoil, Kanyakumari District.
- 4.The Commissioner,
Panchayat Union Council,
Killiyoor, Kanyakumari District.

+1cc to M/S.R.Manimaran, Advocate SR.No. 66750

W.P. (MD) No.11789 of 2018
01.06.2018

ta/pm

JM/SKN RSK/SAR 1/11.06.2018/3P/6C