



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.10.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.(MD)No.20023 of 2018

and

W.M.P.(MD).No.17803 of 2018

T.Saraswathi

... Petitioner

Vs.

1. The District Collector,
Sivagangai District @ Sivagangai.

2. The Executive Officer,
Thirupuvanam Special Grade Town Panchayat,
Thirupuvanam,
Sivagangai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records pertaining to the impugned order passed by the second respondent, dated 05.09.2018 and quash the same.

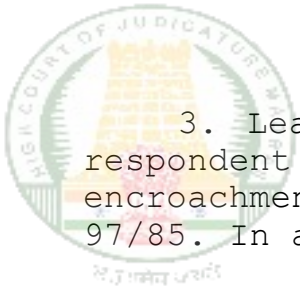
For Petitioner	: Mr.N.Sathish Babu
For R1	: Mr.VR.Shanmuganathan Special Government Pleader
For R2	: Mr.M.Rajarajan Government Advocate

O R D E R

[Order of the Court was made by T.RAJA,J.]

Mrs.Saraswathi, who is owning a land in Survey No.97/1B, has come to this Court, challenging the impugned proceedings, asking her to remove the encroachment in Survey No.97/80, as it has been alleged that she has made encroachment in 20 feet pathway.

2. Assailing the impugned order, learned Counsel appearing for the petitioner would submit that the petitioner is not owning any land in Survey No.97/80 at Thirupuvanam. Therefore, the impugned notice asking her to remove the encroachment in Survey No.97/80, alleging that she has encroached 20 feet pathway at Thirupuvanam, by raising some construction, is wholly misconceived and unjustified, when the petitioner is the owner of the land in Survey No.97/1B. Further, no notice has been issued to the petitioner. Therefore, they should not take any steps for removal of encroachment in Survey



3. Learned Special Government Pleader appearing for the first respondent submitted that action is taken for removal of encroachment only in Survey Nos.97/51, 97/72, 97/99, 97/112 and 97/85. In all these places, several encroachments have come up.

4. If the petitioner is not having any land in Survey No.97/80 as mentioned in the impugned proceedings, she need not come to this Court. As the petitioner has claimed that she is not owning any land in Survey No.97/80, the impugned notice issued need not be gone into in view of the statement made by the learned counsel for the petitioner that she is neither owning any land in Survey No.97/80 nor encroaching any land. Similarly, as per the statement made by the learned Special Government Pleader that they are concentrating the pathway in Survey Nos. 97/51, 97/72, 97/99, 97/112 and 97/85, the alleged encroachers in the said Survey Numbers can be proceeded with in accordance with law. It is needless to mention that if there is any encroachment made by the petitioner in Survey No.97/1B, necessarily notice has to be issued before taking action under Section 7 of the Tamil Nadu Land Encroachment Act, 1905.

5. With these observations, the writ petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The District Collector,
Sivagangai District @ Sivagangai.

2. The Executive Officer,
Thirupuvanam Special Grade Town Panchayat,
Thirupuvanam,
Sivagangai District.

+1 cc to Special Government Pleader, SR.No.88690.

Akv

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W.P. (MD) No.20023 of 2018
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