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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 15.05.2019

CORAM:

THE HON'BLE MRS.JUSTICE J.NISHA BANU
AND
THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P. (MD) .No.12082 of 2019
and
W.M.P. (MD) Nos.9084 and 9085 of 2019

P.Mariamammal : Petitioner
vs.

1. The District Collector,
Virudhunagar District,
Virudhunagar.

2. The Tahsildar,
Sivakasi Taluk,
Virudhunagar District.

3. The Block Development Officer
(Village Panchayat),
Sivakasi,
Virudhunagar District.

: 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 of the impugned Notice.P3/591/2015, dated 02.05.2019, issued by the third respondent and quash the same and consequently direct the respondents 2 and 3 to Survey the Survey No.1686/4, Patta No.1144 at S.Pudupatti Village, Saminatham Panchayat, Sivakasi Taluk, Virudhunagar District and to take decision on that basis.

For Petitioner : Mr.R.Murugappan
For Respondents : Mrs.J.Padmavathy Devi
Special Government Pleader
for R.1 and R.2
: Mr.M.Pandiyarajan
Additional Government Pleader
for R.3

ORDER

[Order of the Court was made by **M.DHANDAPANI, J.**]

This Writ Petition is filed seeking to quash the Notice.P3/591/2015, dated 02.05.2019, issued by the third respondent and consequently direct the respondents 2 and 3 to Survey the Survey No.1686/4, Patta No.1144 at S.Pudupatti Village, Saminatham Panchayat, Sivakasi Taluk, Virudhunagar District and to take decision on that basis.



2. Heard the learned Counsel appearing for the petitioner, the learned Special Government Pleader, who takes notice for the respondents 1 and 2 and the learned Additional Government Pleader who takes notice for the third respondent.

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3. The case of the petitioner is that she is the resident of S.Pudupatti, Engar Village, Saminatham Panchayat, Sivakasi Taluk and she alleged that the impugned notice dated 02.05.2019 has been served on her by stating that she encroached a pathway situated in Survey No.1686/4, Patta No.1144 at S.Pudupatti Village, by constructing a bath room. Hence, she was directed to remove the said bath room, for which, she has approached this Court by filing this present writ petition.

4. The learned Counsel appearing for the petitioner submitted that the petitioner did not want to agitate this matter before this Court, since so many disputed facts are involved and hence, he seeks a direction to the local Authorities to survey the pathway with the help of a surveyor and if the surveyor finds that the petitioner encroached the property, thereafter, the authorities may take appropriate action against the petitioner for removing the bathroom said to have been constructed in Survey No.1686/4, Patta No.1144 at S.Pudupatti Village.

5. The learned Special Government Pleader appearing for the respondents 1 to 3 as well as the learned Additional Government Pleader appearing for the fourth respondent submitted that as per G.O.Ms.No.540 of the Revenue Department, dated 04.12.2014, no encroachment will be removed without measuring the property and the procedures will be scrupulously followed.

6. In view of the above stand taken by the learned Counsel appearing for the respondents, we are inclined to issue a direction to the respondents to follow the procedure as contemplated in G.O.Ms.No.540 of the Revenue Department, dated 04.12.2014, after giving sufficient opportunity to the petitioner. If respondent authorities find that the petitioner encroached the pathway by constructing the bathroom, the same shall be removed. It is made clear that no further opportunity would be given to the petitioner. Such exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

7. The Writ Petition stands disposed of with the above direction. No costs. Consequently, the connected Miscellaneous Petitions are closed.

sd/
Deputy Registrar(LA)

/True Copy/

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar



To

1. The District Collector,
Virudhunagar District,
Virudhunagar.

2. The Tahsildar,
Sivakasi Taluk,
Virudhunagar District.

3. The Block Development Officer
(Village Panchayat),
Sivakasi,
Virudhunagar District.

+1 CC to Mr.R.MURUGAPPAN, Advocate (SR-65803[F] dated 15/05/2019)

+1 CC to SPL GP (SR-65982[F] dated 16/05/2019)

W.P. (MD) .No.12082 of 2019

and

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15.05.2019

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