



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.05.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P(MD)No.12261 of 2019

and

W.M.P(MD)No.9192 of 2019

Mohamed Hassan

... Petitioner

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Commissioner/Block Development Officer,
Thiruvadanai Panchayat Union,
Thiruvadanai,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the impugned notice issued by the second respondent for removal of encroachment under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, vide proceeding No.nil, dated 23.04.2019 and to quash the same.

For Petitioner : Mr.Raja.Karthikeyan
For Respondents : Mr.S.Dhayalan,
Government Advocate.

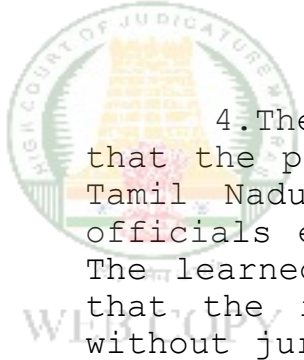
ORDER

(Order of the Court was made by **S.S.SUNDAR,J.**)

This Writ Petition is filed for issuing a Writ of Certiorari, to quash the impugned notice passed by the second respondent for removal of encroachment under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, vide proceeding No.nil, dated 23.04.2019.

2.Heard Mr.Raja.Karthikeyan, learned counsel appearing for the petitioner and Mr.S.Dhayalan, learned Government Advocate, who takes notice for the respondents.

3.By consent, the Writ Petition is taken up for final disposal at the stage of admission itself.



4.The learned counsel appearing for the petitioner submitted that the power to initiate proceedings under the provisions of the Tamil Nadu Land Encroachment Act, 1905, vests with the revenue officials even as per Section 131 of the Tamil Nadu Panchayat Act. The learned counsel appearing for the petitioner further submitted that the impugned order, which has been passed by an authority without jurisdiction to initiate proceedings under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, cannot be accepted.

5.From the perusal of the records it is seen that the impugned order is passed by the Commissioner/Block Development Officer, Thiruvadanai Panchayat Union, the second respondent herein. Hence, this Writ Petition is liable to be allowed and the impugned order is liable to be set aside.

6.Accordingly, the Writ Petition is allowed and the impugned order is set aside. However, it is open to the authorities to follow the procedures prescribed under Section 131 of the Tamil Nadu Panchayat Act. In case, the authorities are not in a position to do so under Section 131 of the Tamil Nadu Panchayat Act, it is open to the authorities to relegate the matter to the revenue officials, who in turn are directed to take appropriate action for removal of encroachment, after following due procedures in the manner known to law and after affording an opportunity of hearing to the petitioner. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Commissioner/Block Development Officer,
Thiruvadanai Panchayat Union,
Thiruvadanai,
Ramanathapuram District.

+1 CC to SPL GP SR-66266.

+1 CC to M/s.RAJA.KARTHIKEYAN, Advocate SR-66187.

W.P (MD) No.12261 of 2019
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