



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2019

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P (MD) NO.14550 OF 2019
and
W.M.P (MD) No.10996 of 2019**

K.Rajendran

:Petitioner

.vs.

1. The District Collector,
Pudukkottai District,
Pudukkottai.

2. The Tahsildar,
Office of the Tahsildar,
Viralimalai,
Pudukkottai.

3. The Block Development Officer(panchayat),
Office of the Block Development Office,
Viralimalai Panchayat Union,
Viralimalai,
Pudukkottai District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus forbearing the respondents from demolishing the Petitioner's house by implementing the order of the third respondent in his proceedings in Na.Ka.Thi 1/4819/2017, dated 27.5.2019 pending hearing of the appeal, dated 24.06.2019 filed before the first respondent.

For Petitioner

: Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

For Respondents
1 and 2

: Mr.N.Shanmugaselvam
Addl.Govt.Pleader

For Respondent-3

: Mr.R.Sethuraman,
Spl. Govt.Pleader

**O R D E R***********

[Order of the Court was made by **K.RAVICHANDRABAABU.,J.**]

The Petitioner seeks for a mandamus to forbear the respondents from demolishing the Petitioner's house by implementing the order of the third respondent, dated 27.5.2019, pending hearing of the appeal, dated 24.06.2019 filed before the first respondent.

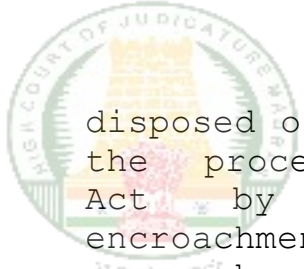
2.Heard the learned Senior Counsel appearing for the Petitioner and the learned Additional Government Pleader appearing for the respondents 1 and 2 and the learned Special Government Pleader appearing for the third respondent.

3.It is seen that the third respondent issued a notice, dated 27.5.2019 calling upon the Petitioner to remove the encroachment within seven days, alleged to have been made in S.No.55/42 in Akkalnaickenpatti Village, Kathalur Panchayat, Viralimalai Panchayat Union.

4.According to the Writ Petitioner, he has not encroached upon the subject-matter property. By contending so, the Petitioner has approached the first respondent and filed an appeal on 24.6.2019 challenging the proceedings of the third respondent dated 27.5.2019. The apprehension of the Petitioner before this Court is that pending disposal of the appeal before the first respondent, the third respondent will demolish the superstructure and therefore, he seeks protection from this Court, pending disposal of the appeal before the first respondent.

5.We have already considered the issue as to the power and scope of the Block Development Officer of the panchayat in resorting to the removal of encroachments by exercising his power under Section 131(2) of the Tamil Nadu Panchayat Act, 1994 and found that such authority under the Tamil Nadu Panchayat Act, after finding that the encroachment has not been removed, even after issuance of notice, has to resort only to the procedures available under the Tamil Nadu Land Encroachment Act, 1905, through Revenue Officials for physical removal of the encroachment and not by themselves. Therefore, We find that the apprehension of the Petitioner that the third respondent will demolish the alleged encroachment, at any moment, is not well-founded. In fact, the learned counsel for the third respondent as well as the learned Additional Government Pleader appearing for the respondents 1 and 2 are not disputing the position that the third respondent will have to approach the Revenue Officials for removal of encroachment, if the Petitioner has not chosen to remove the same, pursuant to the notice, dated 27.5.2019.

6.In view of the above-stated facts and circumstances, more particularly, in view of the submissions made by the learned counsels appearing for the respondents, this Writ Petition is



disposed of, leaving it open to the third respondent to resort to the procedures available under the Tamil Nadu Land Encroachment Act by approaching the Revenue Officials for removal of encroachment, in case, the Petitioner has not chosen to remove the encroachment. Needless to state that once the Revenue Officials proceed to evict the Petitioner under the Tamil Nadu Land Encroachment Act, such proceedings should be in accordance with the procedures contemplated under the said enactment.

7. With the above observations and directions, the Writ Petition stands disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The District Collector,
Pudukkottai District, Pudukkottai.
2. The Tahsildar,
Office of the Tahsildar,
Viralimalai, Pudukkottai.
3. The Block Development Officer (panchayat),
Office of the Block Development Office,
Viralimalai Panchayat Union,
Viralimalai, Pudukkottai District.

+1 CC to M/s.R.SETHU RAMAN, Advocate (SR-72591[F] dated 02/07/2019)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-72732[F] dated 02/07/2019)

+1 CC to Special Government Pleader (SR-73199[F] dated 03/07/2019)

ORDER MADE IN
W.P (MD) NO.14550 OF 2019
and
W.M.P (MD) No.10996 of 2019
01.07.2019