



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

AND

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P(MD)NO.5138 OF 2019

and

W.M.P(MD)No.4127 of 2019

G.Mani

:Petitioner

.vs.

1.The Block Development Officer,
Nilakkottai Panchayat Union,
Nilakkottai.

2.The Special Officer/BDO,
Mattaparai Panchayat,
Nilakkottai Panchayat Union,
Nilakkottai.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records relating to the proceedings of the impugned order in Na.Ka.No.3437/2017/Thi3, dated 27.2.2019, on the file of the second respondent and to quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai
For Respondents : Mr.Aayiram K.Selvakumar
Addl. Govt.Pleader

O R D E R

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

The Petitioner has come forward with this Writ Petition seeking issuance of a Writ of Certiorari to quash the impugned order in passed by the second respondent in Na.Ka.No.3437/2017/Thi3, dated 27.2.2019.

2.Heard Mr.G.Prabhu Rajadurai, learned counsel appearing for the Petitioner and Mr.Aayiram K.Selvakumar, learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

3.Mr.G.Prabhu Rajadurai, learned counsel for the Petitioner has challenged the impugned order in the Writ Petition on the ground that the first respondent has no jurisdiction and the similar order was set aside by this Court in W.P(MD)No.10671 of 2018. However,



without following the due process of law, the present impugned order has been passed.

4.Mr.Aayiram K.Selvakumar, learned Additional Government Pleader appearing for the respondents, on instructions, would state that the Block Development Office is the authority under the Tamil Nadu Panchayat Act to evict the encroachers and if the encroacher is not vacated or removed the encroachment, the matter will be referred to the Tahsildar to evict the encroacher by following the procedure under the Tamil Nadu Land Encroachment Act.

5.As rightly contended by the learned Additional Government Pleader, Sub-Section(2) of Section 131of the Tamil Nadu Panchayat Act casts a duty on the Village Administrative Officer of every revenue village to report on encroachments on properties vested in Village Panchayats or Panchayat Union Councils to the Executive Authority or the Commissioner and then it is the duty of the Executive Officer or the Commissioner to institute proceedings under this Act to secure the removal of encroachments. If the removal of encroachments has not been secured within the specified period in such order, the officers of the Revenue Department shall institute proceedings under the Tamil Nadu Land Encroachment Act,1905 and secure such removal.

6.In the instant case, the impugned order of the Commissioner has been passed under Section 131(2) of the Act and hence, We find no substance in the contention of the Petitioner. In that view, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (T & P)

// True Copy //

Sub Assistant Registrar(CS)

vsn

To

1.The Block Development Officer,
Nilakkottai Panchayat Union, Nilakkottai.

2.The Special Officer/BDO, Mattaparai Panchayat,
Nilakkottai Panchayat Union, Nilakkottai.

+1CC TO MR.AAYIRAM K.SELVAKUMAR, Advocate Sr. No.54180

+1CC TO MR.G.PRABHU RAJADURAI, Advocate Sr. No. 54274

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 54517

ORDER MADE IN

W.P(MD)NO.5138 OF 2019

and W.M.P(MD)No.4127 of 2019

14.03.2019