



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2019

CORAM:

**THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
AND**

THE HONOURABLE MRS. JUSTICE R.THARANI

Writ Petition (MD)No.5909 of 2019
and

W.M.P. (MD).No.4737 and 4738 of 2019

S.Naseerabegum .. Petitioner

Vs.

1.The District Collector,
Pudukkottai District,
Pudukkottai

2.The Tahsildar,
Aranthangi Taluk,
Pudukkottai District.

3.The Revenue Inspector
Poovatrakudi Firka
Tahsildar Office
Aranthangi Taluk
Pudukkottai District.

..Respondents

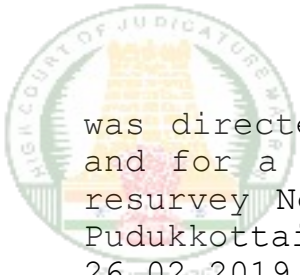
Prayer:Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records relating with the impugned notice issued by the 2nd respondent in his proceedings in Na.Ka.No. 2396/2017/Aa3 dated . 02.2019 and quash the same as illegal and consequentially directing the 2nd respondent to re-survey the land in Survey Nos.144 & 145 in Merpanaikadu Village, Aranthangi Taluk, Pudukkottai District and consider the petitioner's grievance dated 26.02.2019.

For Petitioner	: Mr.S.Saravanakumar
For Respondents	:Mr.VR.Shanmuganathan Special Govt. Pleader

ORDER

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

<https://hcservices.ecourts.gov.in/hcservices/>
The petitioner has come forward with this writ petition for issuance of writ of certiorarified mandamus to quash the proceedings of the second respondent dated .02.2019, by which the petitioner



was directed to remove certain trees and a portion of the property and for a direction to the 2nd respondent to re-survey the land in resurvey Nos.144 & 145 in Merpanaikadu Village, Aranthangi Taluk, Pudukkottai District and consider the petitioner's grievance dated 26.02.2019.

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2. According to the petitioner, she became the absolute owner of the property, having an extent of 2 ½ cents in Sy.No.145/9F and 2 ½ cents in Sy.No.145/10 by virtue of a settlement deed dated 22.06.2005. Since then, she has been in possession and enjoyment of the property. A 40 feet width road is available on the southern side of the petitioner's property and it has been in Sy.No.144. The grievance of the petitioner is that though the second respondent issued a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (hereinafter referred as Act), alleging that the petitioner has encroached in Sy.No.144, no proper enquiry has been conducted and all of a sudden, the impugned notice has been issued.

3. Learned counsel for the petitioner would state that issuance of notice under Section 7 of the Act is not an empty formality and ample opportunity should be given to the petitioner to establish his case.

4. Mr. V. R. Shanmuganathan, learned Special Government Pleader would state that notice under Section 7 of the Act was issued to the petitioner in the month of January 2018 for removal of encroachment. Subsequently a Public Interest Litigation was filed to remove the encroachment in Sy.No.144 and alleging non compliance, a contempt petition is pending in Cont.P.(MD).No.505/2019. According to the learned Special Government Pleader, survey was conducted, before issuance of impugned notice.

5. In the case on hand, the main grievance of the petitioner is that the second respondent without conducting a survey had come to the conclusion that the petitioner had encroached in Sy.No.144.

6. Considering the nature of the grievance expressed by the petitioner, it would be appropriate to direct the second respondent to conduct a survey in the land in Sy.No.144 of Merpanaikadu Village, Aranthangi Taluk, Pudukkottai District in the presence of the petitioner and if any encroachment is found out, the second respondent is entitled to remove the same. Till then, the impugned order shall be kept in abeyance. It is made clear that the trees planted in the alleged encroached area shall not be removed, unless, they cause hindrance to the usage of the public road.

7. Accordingly, this writ petition is disposed of. No costs.



Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (w)

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// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The District Collector,
Pudukkottai District,
Pudukkottai
- 2.The Tahsildar,
Aranthangi Taluk,
Pudukkottai District.
- 3.The Revenue Inspector
Poovatrakudi Firka
Tahsildar Office
Aranthangi Taluk
Pudukkottai District.

+1cc to Mr.S.SARAVANAKUMAR, Advocate, SR.No.53518

+1cc to M/s.Special Government Pleader,SR.No.53959

Writ Petition (MD)No.5909 of 2019
13.03.2019

VS

KK/SAR-/01.04.2019/3P-6C