



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

AND

THE HONOURABLE MRS. JUSTICE R.THARANI

Writ Petition (MD) No.9072 of 2019

and

W.M.P. (MD).Nos.7063 and 7064 of 2019

C.Shanthi

.. Petitioner

Vs.

1.The Block Development Officer (Village Panchayats)
Kurunthancodu Panchayath Union,
Kanyakumari District.

2.The Tahsildar,
Kalkulam Taluk,
Kanyakumari District.

3.Chinnathambi

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorari to call for the records in pursuant to the impugned notice issued by the 1st respondent in Na.Ka.No.A10/24/2019 dated 29.03.2019 and quash the same insofar as petitioner is concerned, as it is illegal, arbitrary.

For Petitioner : Mr.S.Karthikeyavenkitachalapathy

For Respondents : Mr.M.Murugan, Govt.Advocate for R-1

Mr.Ayiram K.Selvakumar

Addl. Govt. Pleader for R-2

ORDER

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

Heard Mr.S.Karthikeyavenkitachalapathy, learned counsel for the petitioner, Mr.M.Murugan, learned Government Advocate for the first respondent and Mr.Ayiram K.Selvakumar, learned Additional Government Pleader appearing for the second respondent. Considering the nature of prayer sought for in this writ petition, notice to the third respondent is dispensed with.



2. By consent of the parties, the writ petition is taken up for final disposal.

3. The petitioner has come forward with this writ petition for issuance of writ of certiorari to quash the impugned order of the first respondent passed in Na.Ka.No.A10/24/2019 dated 29.03.2019.

4. The case of the petitioner is that a housing plot to an extent of 2 cents in Sy.No.493/4 originally belonged to her grandfather viz., Mr.Ramasamy. She became the absolute owner by virtue of a registered settlement deed, registered as document No.2744/1998. The petitioner would claim that after obtaining planning permission, she had put up a construction and residing therein.

5. Learned counsel for the petitioner would state that at the instigation of the third respondent, the first respondent issued a notice dated 21.02.2019 alleging that the petitioner had encroached upon a street in Sy.No.496, for which, the petitioner had submitted a reply dated 01.03.2019. But, without considering the same, this impugned order has been passed.

6. The learned counsel for the respondents would submit that the second respondent had already conducted a survey and only based on the report of the second respondent, the first respondent initiated proceedings to remove the encroachment. It is further submitted that the order has been passed under Section 131(2) of the Tamil Nadu Panchayats Act and if the petitioner fails to remove the encroachment within the stipulated time, the matter will be referred to the second respondent, who will initiate proceedings under the Tamil Nadu Land Encroachment Act, 1905.

7. Heard the rival submissions and perused the materials available on record.

8. In the instant case, though the learned counsel for the respondents would state that the proceedings are initiated, after conducting a survey by the second respondent, no materials are placed by this Court to substantiate the same. In the light of the submissions of the learned counsel for the respondents, no further adjudication in this writ petition is warranted.

9. Considering the grievance expressed by the petitioner, the second respondent is directed to conduct a survey in the presence of the petitioner and other necessary parties and if any encroachment is found, the second respondent shall remove the encroachment by



following the provisions of the Tamil Nadu Land Encroachment Act. It is made clear that by using the order impugned in this writ petition, the second respondent shall not proceed against the petitioner.

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10. With the above observation and direction, this writ petitioner is disposed of. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Block Development Officer (Village Panchayats)
Kurunthancode Panchayath Union,
Kanyakumari District.

2. The Tahsildar,
Kalkulam Taluk,
Kanyakumari District.

+1cc to Mr. M. KARTHIKEYAVENKITACHALAPATHY, Advocate, SR.No. 60962
+1cc to M/s. Special Government Pleader, SR.No. 61224

Writ Petition (MD) No. 9072 of 2019
15.04.2019

VS
KK/SAR/09.05.2019/ 2P- 5C