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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD)No.16177 of 2020
and W.M.P. (MD) No.13545 of 2020

Mala

: Petitioner

Vs.

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Tahsildar,
Srivaikundam Taluk,
Thoothukudi District.

3.The Block Development Officer,
Karunkulam Panchayat Union,
Thoothukudi District.

4.The Panchayat President,
Alantha Village Panchayat,
Karunkulam Panchayat Union,
Thoothukudi District.

5.Kumar

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned order dated 29.10.2020 in impugned proceedings No.53/624/2018 of the 3rd respondent and quash the same as illegal.

For Petitioner : Mr.M.Prabu
For Respondents 1 to 4 : Mrs.J.Padmavathi Devi
Special Government Pleader

O R D E R

(Order of the Court was made by **N.KIRUBAKARAN, J.**)

The petitioner has challenged the impugned proceedings issued by the third respondent in No.53/624/2018 dated 29.10.2020, stating that the petitioner has encroached the pathway comprised in S.Nos.905A/1A2, 1B2 Alantha Village, Srivaikundam Taluk, Thoothukudi District.



2.Mrs.J.Padmavathi Devi, learned Special Government Pleader takes notice for the respondents 1 to 4. In view of the order going to be passed in this Writ Petition, notice to the fifth respondent is dispensed with.

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

4.The learned counsel for the petitioner would submit that the petitioner has not been given any notice before passing the eviction order.

5.It is evident from the typed set of documents filed in support of the Writ Petition that the petitioner has filed a civil suit in O.S.No.37 of 2019 on the file of the learned District Munsif, Srivaikundam and thereafter, notice was given by the Village Panchayat for eviction and it was challenged before this Court in W.P.(MD) No.12382 of 2020 and the same was disposed of on 23.09.2020, directing the authorities to take appropriate action for removal of encroachment, pursuant to which, the present order has been passed.

6.From the nomenclature of the proceedings of the third respondent, it is clear that it is only a notice issued by the third respondent/Block Development Officer. Hence, two weeks time is granted to the petitioner from the date of receipt of a copy of this order to give reply to the impugned notice. The third respondent is at liberty to pass orders based on the reply to be given by the petitioner within two weeks thereafter and take appropriate action in accordance with law. Till the third respondent passes the order, after getting reply from the petitioner, the eviction proceedings pursuant to the impugned notice shall be kept in abeyance.

7.Accordingly, the Writ Petition stands disposed of. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

sj



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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To

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W.P. (MD) No.16177 of 2020
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SGS (CO)

AP (02/12/2020) 3P 5C