



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS. JUSTICE S.ANANTHI

W.P. (MD)No.304 of 2021

and W.M.P. Nos.233 to 235 of 2021

(Through Video Conferencing)

Latha Maheswari

: Petitioner

Vs.

1.The Secretary

Home Department,

Secretariate, St. Fort George, Chennai.

2.The District Collector,

Karur District, Karur.

3.The Tahsildar,

Karur Taluk, Karur District.

4.The Junior Engineer, PWD, WRD

Amaravathi Basin Section -I, Karur.

5.P.Ilangovan

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned notice to order for removal of encroachment issued by the 4th respondent dated 01.12.2020 and quash the same as arbitrary consequently direct the respondents 2 to 4 not to demolish the portion of the petitioner's house property situated in new S.F.No.112/3(Old S.F.No.112) in Plot No.15, situated at Thanthooni Village, Karur Taluk & District as per the representations of the petitioner dated 12.12.2020 and 28.12.2020.

For Petitioner : Mr.S.Gokulraj

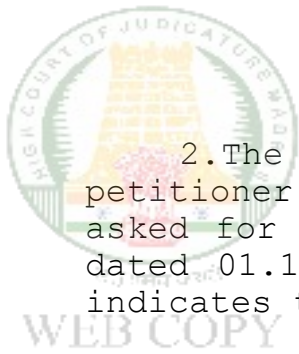
For Respondents : Mr.K.P.Krishnadoss

Special Government Pleader

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner was issued with an order of eviction on the earlier occasion on 01.12.2020. On receipt of the same, the petitioner made a representation on 12.12.2020, which was received by the respondent No.4 on 22.12.2020. Thereafter, the respondent No.4 gave a reply on 22.12.2020 stating that the measurement has been made based upon the revenue records.



2.The learned counsel for the petitioner submitted that the petitioner made two representations, in which, she had specifically asked for measurement in her presence. Neither the impugned order dated 01.12.2020 nor the subsequent communication dated 22.12.2020 indicates the basis of encroachment.

3. The learned Special Government Pleader appearing for the respondents submitted that the petitioner's representation was considered and thereafter a communication was sent on 22.12.2020,

4. The question for consideration is as to whether the petitioner has put up construction in the public land or not.

5.We have perused the order dated 01.12.2020 and the subsequent communication dated 22.12.2020. There is absolutely no mentioning about the objection of the petitioner and the nature of encroachment made. While the respondent No.4 has got power to remove the encroachment, the same will have to be done in the manner known to law. The impugned notice dated 01.12.2020 has been issued in the prescribed form and therefore, it did not foresee any pre-hearing. Hence, it cannot be accepted as a final order. In the subsequent communication, dated 22.12.2020, the petitioner was given a reply by the respondent No.4 that due measurements have been made. After hearing, the objection of the petitioner has not been considered.

6. In such view of the matter, while treating the notice dated 01.12.2020, the respondent No.4 is directed to pass appropriate orders on the representation of the petitioner by conducting a fresh enquiry, which is inclusive of due measurements with the available records, and thereafter pass a final order by considering the relevant materials. The needful will have to be done within a period of six weeks from the date of receipt of a copy of this order. Till such time, status quo as on today shall be maintained. We make it clear that the final order will have to be passed by the Assistant Engineer of the Public Works Department.

7. With the above direction, the writ petition stands disposed of. No costs. Consequently connected Miscellaneous Petitions are closed.

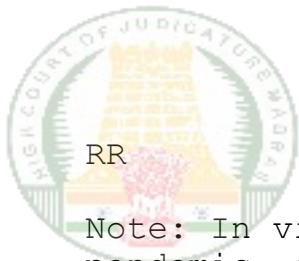
Sd/-

Assistant Registrar (AD II)

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/ /2021

Sub Assistant Registrar(CS)



RR

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.

To

- 1.The Secretary
Home Department,
Secretariat, St. Fort George, Chennai.
 - 2.The District Collector,
Karur District, Karur.
 - 3.The Tahsildar,
Karur Taluk, Karur District.
 - 4.The Junior Engineer, PWD, WRD
Amaravathi Basin Section -I, Karur.
 - 5.The Assistant Engineer, PWD
Karur.
- +1 CC to SGP (SR-1108[F] dated 19/01/2021)
- +1 CC to Mr.S.GOKUL RAJ, Advocate (SR-843[F] dated 11/01/2021)

**Order made in
W.P. (MD)No.304 of 2021
Dated: 11.01.2021**

KM (29.01.2021) 3P 8C