



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2021

CORAM :

The Hon'ble Mr.JUSTICE T.S.SIVAGNANAM

AND

The Hon'ble Mrs.JUSTICE S.ANANTHI

W.P(MD).No. 5403 of 2021
and WMP (MD) No. 4317 of 2021

A. Bastin

... Petitioner

Vs

The Panchayat President/Executive Officer,
Panyakurichy Panchayat,
Trichy District.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari or any other appropriate Writ or Order or Direction in the nature of Writ calling for the records relating to Eviction order passed by the respondent dated 26.02.2021 and quash the same.

For Petitioner : Mr.C. Vakeeswaran

For respondents : Mr.R. Baskaran,
Standing Counsel for Government

ORDER

[Order of the Court was made by **T.S. SIVAGNANAM, J.**]

The petitioner has filed this writ petition, challenging the notice issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, by the Executive Officer of the respondent/village panchayat.

2. If the land in question belongs to the Panchayat, then action has to be initiated for eviction by following the procedures provided under the Tamil Nadu Panchayat Act in the rules framed thereunder, by referring the matter to the revenue officials. The respondent cannot invoke the provisions of the Land Encroachment Act. That apart, in the instant case, without issuing any notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, an order of judicial under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, has been passed. Therefore, the impugned notice has to be set aside.



3. However, it has to be ensured that there is no encroachment. The petitioner would contend that they have been residing in the said area for several years and there is no encroachment. However, the President of the Panchayat wants to help a real estate promotor, by developing the said land, so that the value of the property will increase. However, necessary averments in this regard nor proper person has been impleaded in the writ peittion for us to examine such allegations.

4. Be that as it may, since we find that the impugned notice has been issued by the respondent under a wrong provision of law, we permit the respondent to withdraw the impugned notice and refer the matter to the revenue authorities, if it is found that there is any encroachment on the Government property or in the Panchayat property. This direction be complied with, within a period of twelve weeks from the date of receipt of a copy of this order.

5. With the above observations, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ksa/rm

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
The Panchayat President/Executive Officer,
Panyakurichy Panchayat,
Trichy District.

Order made in
W.P(MD).No. 5403 of 2021
07.06.2021

AL(CO)
TR(18.06.2021) 2P 2C