



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.11.2021

CORAM :

WEB COPY

THE HONOURABLE TMT.JUSTICE PUSHPA SATHYANARAYANA
and
THE HONOURABLE THIRU.JUSTICE P.VELMURUGAN

W.P (MD)No.20458 of 2021

and

WMP (MD)Nos.17107 and 17108 of 2021

Chellammal

... Petitioner

vs.

1) The Assistant Divisional Engineer(Highways),
Office of the Assistant Divisional Engineer(Highways),
Construction and Maintenance,
Melur, Madurai District.

2) The Tahsildar,
Melur,
Madurai District.

3) Vellaikakkan

... Respondents

Petition filed under Article 226 of the Constitution of India,
for issuance of a Writ of Certiorari, calling for the records of the
1st respondent impugned notice vide Na.Ka.No.238/2021/A1 dated
06.10.2021 and consequential notice Na.Ka.No.238/2021/A1/dated
26.10.2021 as illegal, arbitrary and discriminatory.

For Petitioner : Mr.V.Duraipandian

For R1 & R2 : Mr.B.Saravanan,
Additional Government Pleader



ORDER

(Order of the Court was made by
PUSHPA SATHYANARAYANA, J.)

The writ petition is challenging the impugned notice dated 06.10.2021, which relates to Survey No.266 in Melur Sathirapatti, Kottaiyoor, Aravakurichi Salai. The impugned notice states that the writ petitioner has encroached upon Survey No.266.

2. The case of the writ petitioner is that it is a patta land. However, the copy of the patta produced in the typedset shows that what belongs to the petitioner is in Survey No.264/1A1, whereas the impugned notice relates to Survey No.266.

3. The learned Additional Government Pleader also submitted the proceedings of the Tahsildar, Melur, in which, it is stated that a survey was conducted in Survey No.266 and it was found that 18.53 square meters of land was encroached upon by the writ petitioner, by constructing a Toilet. Hence, the impugned notice was issued.

4. Admittedly, the petitioner would be entitled to only enjoy the extent, for which, she has got title in Survey No.262/1A1. The 'A' Register also states that Survey No.266 is a 'Salai Poromboke', over which, the petitioner does not have any right.

5. In the light of the above, the official respondents are directed not to disturb the petitioner's possession over the patta land in Survey No.262/1A1. However, the authorities are entitled to remove the encroachment put up by the petitioner in Survey No.266. The petitioner is also directed to remove the encroachment and deliver vacant possession to the authorities.

6. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1) The Assistant Divisional Engineer(Highways),
Office of the Assistant Divisional Engineer(Highways),
Construction and Maintenance,
Melur, Madurai District.

2) The Tahsildar,
Melur,
Madurai District.

+1 CC to M/s.SPL GP (SR-34935[F] dated 18/11/2021)

W.P(MD)No.20458 of 2021

DATED : 16.11.2021

MGJ(30.11.2021) 3P 4C