



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.05.2022

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MRS. JUSTICE S. ANANTHI

W.P.No.12129 of 2022
&
W.M.P.No.11569 of 2022

Manimegalai

Vs

..Petitioner

The Block Development Officer,
(Village Panchayat)
Mangalore, Cuddalore District.

..Respondent

Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari calling for the entire records relating to the order dated 21.04.2022 made in Na.Ka.A3/1099/2018 issued under Section 6 of the Land Encroachment Act, 1905 (Act 3 of Chennai) on the file of the respondent herein and quash the same.

For Petitioner : Ms.V.Suguna
for Mr.C.Munusamy

For Respondent : Mr.A.Selvendran
Special Government Pleader

ORDER

(Order of the Court was made by R. MAHADEVAN, J.)

The prayer made in this writ petition is to issue a writ of certiorari calling for the records relating to the order dated 21.04.2022 passed by the respondent in Na.Ka.No.A3/1099/2018 under Section 6 of the Land Encroachment Act, 1905 and to quash the same.



2.It is the case of the petitioner that she is cultivating the land in Survey No.312/3, in Malaiyanur Village, Veppur Taluk, Cuddalore District for several decades and is regularly paying kist and other charges to the Revenue Authorities. While so, her possession was disturbed by some persons and therefore, she filed a suit, which culminated in filing a Second Appeal No.1000 of 2021 and the same is pending before this court. In such circumstances, the respondent has issued the impugned notice dated 21.04.2022 under section 6 of the Land Encroachment Court, without conducting any enquiry and without providing an opportunity of hearing to the petitioner. Therefore, the petitioner is before this court with this writ petition.

3.The learned counsel for the petitioner submitted that the impugned notice has been issued directing the petitioner to remove the so called encroachments, such as fruit bearing trees and agricultural crops, without affording the petitioner an opportunity of hearing or following the mandatory procedures as contemplated under law and hence, the same is liable to be set aside as it is arbitrary, illegal and in violation of the principles of natural justice.

4.On the other hand, the learned Special Government Pleader taking notice for the respondent submitted that the land in question belongs to the government and the petitioner had encroached upon the same, thereby causing disturbance to the general public and creating law and order problem. However, he submitted that any action would be taken by the respondent authorities, only after following due process of law.

5.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this court without going into the merits of the case, directs the respondent to look into the issue and take appropriate action, if there is any encroachment, after following due procedure in the manner known to law.

6.Accordingly this writ petition stands disposed of. No costs. Consequently, connected writ miscellaneous petition is closed.

Sd/-
Vacation Officer

True Copy//

Sub Assistant Registrar

gpa/nsa



To

The Block Development Officer,
(Village Panchayat),
Mangalore, Cuddalore District.

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+1cc to the Government Pleader, S.R.No.31204

W.P.No.12129 of 2022
& W.M.P.No.11569 of 2022

BR[co]
NSK/02/06/2022