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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 01.02.2022

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.NO.26180 OF 2021
AND
W.M.P.NO.27635 OF 2021

V.Selvi
W/o Velu
Thonaiyan Street
Udayamampattu Village
Thiyagadurugam
Kallakurichi Taluk
Kallakurichi District - 606 206.

...Petitioner

Vs

1.The District Collector
Kallakurichi District
Kallakurichi.

2.The Revenue Divisional Officer
Kallakurichi
Kallakurichi District.

3.The Tahsildar
Kallakurichi Taluk
Kallakurichi District.

4.The Executive Officer
Thiyagadurugam Municipality
Kallakurichi District.

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the proceedings of the 4th respondent in Na.Ka.No.A1/316/2021 dated 04.10.2021 and quash the same as illegal, incompetent and ultravires and consequently direct the 3rd respondent to issue patta for the petitioner's house site in Survey No.97/24 at Udhayamampattu Village, Thyagadurugam, Kallakurichi District to an extent of 0.05 Cents by considering the petitioner's representation dated 17.11.2021 within a time frame fixed by this Court.



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For petitioner : Mr.R.Jayaprakash
For respondents : Mr.R.Siddharth
Government Advocate for RR1 to 3
Mr.M.S.Premkumar
Government Advocate for R4

ORDER

(Order of the Court was made by K.KALYANASUNDARAM, J.,)

We have heard Mr.R.Jayaprakash, learned counsel appearing for the petitioner; Mr.R.Siddharth, learned Government Advocate appearing for the respondents 1 to 3 and Mr.M.S.Premkumar, learned Government Advocate appearing for the 4th respondent.

2.This writ petition has been filed, challenging the notice issued by the 4th respondent dated 04.10.2021 under Section 6 of the Land Encroachment Act (hereinafter referred to as 'the act').

3.It is the stand of the 4th respondent that the petitioner has encroached upon the street at Udayamampattu Village in Survey No.97/24 to an extent of 0.00.15 sq. meter.

4.When the matter was taken up for hearing, the learned Standing Counsel appearing for the 4th respondent would state that since the encroachment is made on the road, the 4th respondent has to take action under Section 182 of the Municipalities Act, however a notice under Section 6 of the Act has been wrongly issued to the petitioner. He further stated that the 4th respondent will withdraw the notice impugned in this writ petition and issue a fresh notice under Section 182 of the Municipalities Act and also remove the encroachment by following due process of law.

5.Recording the submissions of the learned counsel appearing for the 4th respondent, this writ petition is closed. It is made clear that the 4th respondent shall not take any further action under the notice impugned in this writ petition. Further, it is open to the 4th respondent to take necessary action, in accordance with law. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

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To

1.The District Collector
Kallakurichi District
Kallakurichi.

2.The Revenue Divisional Officer
Kallakurichi
Kallakurichi District.

3.The Tahsildar
Kallakurichi Taluk
Kallakurichi District.

4.The Executive Officer
Thiyagadurugam Municipality
Kallakurichi District.

+1cc to Mr.R.Jayaprakash, Advocate Sr.No.6140

+1cc to Mr.M.Shahjahan, Advocate Sr.No.6975

+1cc to the Government Pleader Sr.No.6474

W.P.No.26180 of 2021
and W.M.P.No.27635 of 2021

SS(CO)
RVM(01/03/2022)