



W.P.(MD).No.12338 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2022

CORAM:

**THE HONOURABLE MR.JUSTICE S.S. SUNDAR
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

W.P.(MD).No.12338 of 2022
and
W.M.P(MD)Nos.8774 and 8772 of 2022

1.Ganesan

2.Ramachandran

3.Ammaiyappan

.. Petitioners

Vs.

1.The District Collector,
Virudhunara,
Virudhunagar District.

2.The Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.

3.The Tahsildar,
Kariyapatti Taluk,
Virudhunagar District.

4.The Commissioner,
Kariyapatti Panchayat Union,
Virudhunagar District.



W.P.(MD).No.12338 of 2022

5.The President/Executive Officer,
Aaviyur Panchayat
Virudhunagar District.

6.Dhanalakshmi
The President /Executive Officer,
Aaviyur Panchayat,
Virudhunagar District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned notice issued by the 5th respondent in pursuance of the proceedings of 3rd respondent in Na.Ka.A.8/2700/2021 dated 25.08.2021 and quash the same as illegal and thereby restraining the respondents or their men or agents from evicting the petitioners from shops from S.No.140/5 situated at Aaviyur Village, Kariyapatti Taluk, Virudhunagar District and to consider the representation of the petitioner dated 10.06.2022.

For Petitioners	: Mr.G.Mariappan
For R1 to R3	: Mr.S.P.Maharajan, Special Government Pleader
For R4 to R6	: Mr.J.Ashok Additional Government Pleader

ORDER

(Order of the Court was made by S.S.SUNDAR.J.,)

This writ petition is filed for issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned notice issued by the fifth respondent in pursuance of the proceedings of the third respondent in Na.Ka.A.



W.P.(MD).No.12338 of 2022

8/2700/2021 dated 25.08.2021 and quash the same and thereby restraining the respondents or their men or agents from evicting the petitioners from shops from S.No.140/5 situated at Aaviyur Village, Kariyapatti Taluk, Virudhunagar District and to consider the representation of the petitioner dated 10.06.2022.

2.Heard Mr.G.Mariappan, learned counsel appearing for the petitioners, Mr.S.P.Maharajan, learned Special Government Pleader apperaing for the respondents 1 to 3 and Mr.J.Ashok, learned Additional Government Pleader appearing for the respondents 4 to 6.

3.It is the case of the petitioners that the petitioners have put up petty shops in Government land, which is vested with Aaviyur Panchayat and the petitioners are eking out their livelihood. After putting up petty shops by encroaching the public property, the petitioners have approached this Court, after making representation to the official respondents viz., the District Collector and the Local body including the President of Aaviyur Panchayat. The petitioners themselves admitted that they have encroached into the property of local body and hence, proceedings can be initiated either under the provision of the Tamil Nadu Public Premises (Eviction of Unauthorized Occupants) Act, 1975, or under Section 131 of the Tamil Nadu Panchayats Act, 1994.



W.P.(MD).No.12338 of 2022

WEB COPY

4.It is seen from the proceedings of the third respondent that notice had already been issued by the local body for eviction by 23.05.2022. The petitioners have submitted a representation stating that they need not be disturbed, as there are several other encroachments, which are not removed and the petitioners' encroachments are not causing any obstruction or hindrance to the local public.

5.The petitioners admitted that notice has been issued by the local body directing them to evict or remove the encroachment on 23.05.2022. In such circumstances, in accordance with Section 131 of the Tamil Nadu Panchayats Act, even if the local body is unable to remove the encroachment, if a request is made by the local body, the revenue department can initiate proceedings for removal of encroachment under the provision of Tamil Nadu Land Encroachment Act. Hence, this Court does not find any merit in this writ petition and accordingly, the writ petition is dismissed. However, the petitioners may approach the local body. Unless, the local body is prepared to regularize the encroachment by the petitioners either by grant of lease or by grant of license for running or doing the business by putting up petty shops without causing nuisance to public, the proceedings shall be completed within three



W.P.(MD).No.12338 of 2022

months. No costs. Consequently, connected miscellaneous petitions are closed.

WEB COPY

(S.S.S.R.J.) (S.S.Y.J.)
20.06.2022

Index: Yes/No

Internet: Yes

To

1. The District Collector,
Virudhunara,
Virudhunagar District.
2. The Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.
3. The Tahsildar,
Kariyapatti Taluk,
Virudhunagar District.
4. The Commissioner,
Kariyapatti Panchayat Union,
Virudhunagar District.
5. The President/Executive Officer,
Aaviyur Panchayat
Virudhunagar District.
6. Dhanalakshmi
The President /Executive Officer,
Aaviyur Panchayat,
Virudhunagar District.

S.S. SUNDAR, J.,
and



WEB COPY



W.P.(MD).No.12338 of 2022

S.SRIMATHY,J.,
Ns

W.P.(MD).No.12338 of 2022
and

W.M.P(MD)Nos.8774 and 8772 of 2022

20.06.2022