



WEB COPY

W.P.(MD)No.12419 of 2022

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.12419 of 2022

Sadaiyandi

... Petitioner

Vs.

1.The District Collector,
Theni District,
Theni.

2.The Revenue Divisional Officer,
Periyakulam Revenue Division,
Periyakulam,
Theni District.

3.The Thasildar,
Periyakulam Taluk,
Theni District.

4.The Block Development Officer,
Periyakulam Panchayat Union,
Periyakulam,
Theni District.

5.The Village Panchayat President,
Endapuli Village Panchayat,
Periyakulam Union,
Theni District.

6.Rajakili

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents No.1 to 5 herein to remove the encroachment made by the 6th respondent in S.F.No.433/1 situated at Endapuli Village, Periyakulam Taluk, Theni District and based on the petitioner's representation dated 13.08.2021.

For Petitioner

: Mr.M.Prabhu

For Respondents 1 to 4

: Mr.N.Satheesh Kumar

Additional Government Pleader

For 5th Respondent

: Mr.S.P.Maharajan

Special Government Pleader



ORDER

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

The writ petition is filed for issuance of a Writ of Mandamus, directing the respondents No.1 to 5 herein to remove the encroachment made by the 6th respondent in S.F.No.433/1 situated at Endapulil Village, Periyakulam Taluk, Theni District based on the petitioner's representation dated 13.08.2021.

2. Heard Mr.M.Prabhu, learned counsel for the petitioner, Mr.N.Satheesh Kumar, learned Additional Government Pleader, who accepts notice on behalf of respondents 1 to 4 and Mr.S.P.Maharajan, learned Special Government Pleader, who accepts notice on behalf of the fifth respondent.

3. Though notice is expected to be served on the sixth respondent, having regard to the order proposed to be passed in this writ petition, no prior notice to the sixth respondent is required.

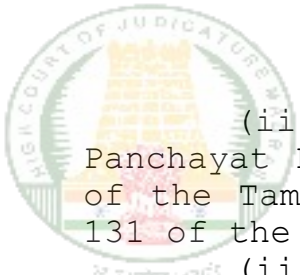
4. Alleging that the 6th respondent has encroached into the road portion, which is located in S.F.No.433/1, in the Endapulil Village, the petitioner has submitted a representation dated 13.08.2021, to the official respondents for removal of encroachment.

5. It is brought to the notice of this Court by the learned Special Government Pleader appearing for the 5th respondent that the Village Administrative Officer has already reported the encroachment in S.F.No.433/1 by the 6th respondent. As per the report, encroachment of 6th respondent is by planting plantain and other plants and by putting up permanent fencing encroaching into the street. The Tahsildar concerned also inspected the property and confirmed that there is an encroachment. The Block Development Officer, Periyakulam has requested the Panchayat President, Endapulil Village to remove the encroachment under the Tamil Nadu Panchayats Act, 1994.

6. This Court, in several cases, indicated the manner and procedure should be adopted by the respondent in the case of removal of encroachment.

7. Without expressing any opinion on the merits of the petitioner's representation or the contentions raised by the petitioner in the affidavit filed in support of this writ petition, this Court is inclined to pass the following directions:

(i) In the course of hearing, the learned Special Government Pleader appearing for the 5th respondent submitted that the Block Development Officer has now requested the Panchayat President to remove the encroachment under the Tamil Nadu Panchayats Act, 1994.



(ii) In view of the above, it is open to the 5th respondent Panchayat President to take appropriate action under the provisions of the Tamil Nadu Panchayat Act 1994 as contemplated under Section 131 of the Tamil Nadu Panchayat Act.

(iii) In case, the local body is unable to secure the encroached area or to evict the unauthorized occupant, it is open to the local body to make a representation/reference to the third respondent Thasildar.

(iv) Upon receipt of such representation/reference from the fifth respondent-local body, the third respondent is directed to consider the request of the local body, after issuing notice to the petitioner as well as the sixth respondent and holding an enquiry, and take appropriate action under the provision of the Tamil Nadu Land Encroachment Act, 1905, after following the procedure in accordance with law, within a period of twelve weeks from the date of receipt of the representation/reference from the local body.

8. Accordingly, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CO)

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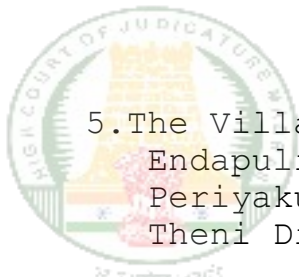
/07/2022

Sub Assistant Registrar(CS)

Sj

To

1. The District Collector,
Theni District,
Theni.
2. The Revenue Divisional Officer,
Periyakulam Revenue Division,
Periyakulam,
Theni District.
3. The Tahsildar,
Periyakulam Taluk,
Theni District.
4. The Block Development Officer,
Periyakulam Panchayat Union,
Periyakulam,
Theni District.



5.The Village Panchayat President,
Endapuli Village Panchayat,
Periyakulam Union,
Theni District.

+1 CC to M/s.S.P. MAHARAJAN, Advocate (SR-26982[F] dated 21/06/2022)

+1 CC to M/s.M. PRABU, Advocate (SR-27238[F] dated 21/06/2022)

+1 CC to M/s.SPL.GP (SR-27437[F] dated 22/06/2022)

W.P (MD) No.12419 of 2022

20.06.2022

KS (CO)

KB (04.07.2022) 4P 9C