



W.P.(MD)No.15515 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2022

CORAM:

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

W.P.(MD)No.15515 of 2022
and W.M.P.(MD) No.11174 of 2022

Muthupandian

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Revenue Divisional Officer,
Tirunelveli District,
Tirunelveli.

3.The Tahsildar,
Manur Taluk,
Tirunelveli District.

4.The Commissioner,
Manur Panchayat Union,
Manur Taluk,
Tirunelveli District.

5.The Executive Officer/President,
Manur Panchayat Union,
Vannikonendal,
Manur Taluk,
Tirunelveli District.

6.Johthi Lakshmi

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned Notice issued by the 5th respondent dated 04.07.2022, No.Nil, under Section 131(2) and 222 of Tamilnadu Panchayat Act, 1994 and consequential impugned order passed by the 5th respondent in No.Nil dated Nil and quash the same as illegal.

For Petitioner : Mr.L.George Paul Anto

For Respondents 1 to 5 : Mr.S.P.Maharajan
Special Government Pleader

* * *

ORDER

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

This Writ Petition is filed by the petitioner to quash the impugned Notice issued by the 5th respondent dated 04.07.2022, No.Nil, under Section 131(2) and 222 of Tamilnadu Panchayat Act, 1994 and consequential impugned order passed by the 5th respondent in No.Nil dated Nil.

2. Heard Mr.L.George Paul Anto, learned counsel for the petitioner as well as Mr.S.P.Maharajan, learned Special Government Pleader, who accepts notice on behalf of the respondents 1 to 5. By consent of both parties, this Writ Petition is



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taken up for final disposal at the stage of admission itself.

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3. The petitioner has earlier filed a writ petition in W.P.(MD) No.13661 of 2022 for issuance of a Writ of Mandamus, to forbear the respondents 1 to 5 and their men or agents from in anyway interfering with the petitioner's peaceful enjoyment of the House in Door No.15 and Shops No.4/15A, 4/15B, 4/15C and 4/15D in Survey No.1306/22 and 1306/14 situated at 4th Ward Vannikonendal Village, Manur Taluk, Tirunelveli District, subject to the pending disposal of the civil suit in O.S.No.142 of 2020 on the file of the Sub Court, Sankarankovil, Tirunelveli District based on the petitioner's representation dated 25.06.2022. In said writ petition, this Court has made an observation that the petitioner has no document to prove his title over S.Nos.1306/14, 15 and 1320/1 in Vannikonendal Village, Manur Taluk, Tirunelveli District. Though the petitioner has filed a civil Suit, claiming right in respect of S.No. 1306/14, there is no interim order. In such circumstances, this Court directed the respondents to proceed with the removal of encroachment after following the procedures and directions issued by this Court in various judgments. Thereafter, a notice is issued by the Local Body in exercise of powers under Sections 131(2) and 222



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of Tamil Nadu Panchayats Act, 1994. In the notice, it is mentioned that an extent of 65 square meters in S.No.1306/14 is encroached by the petitioner by putting up a compound wall and shed.

4. Earlier the petitioner has approached the President of Panchayat, by communication dated 08.07.2022, to stall the eviction proceedings on the basis of pendency of the civil suit in O.S.No.142 of 2020. Based on the directions of this Court in the earlier writ petition, the representation was rejected. It is to be noted that the President of the Panchayat in his reply has categorically stated that there was a survey conducted in the presence of the petitioner and the encroachment of the petitioner was noted as per the report of the Tahsildar concerned.

5. Learned Special Government Pleader appearing on behalf of the respondents 1 to 5 on instructions submitted that there are few other encroachers and every one of them were issued notice for removal of encroachments after confirming the encroachment by conducting survey in the presence of all the encroachers. Further, the President of the Panchayat has requested the Block Development Officer to proceed further for removal of



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encroachment.

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6. As pointed out by this Court earlier, when the Local Body is unable to take possession in pursuant to the proceedings initiated by directing the removal of encroachment, it is for the Revenue Authorities to remove the encroachment under Tamil Nadu Land Encroachment Act, 1905. It is admitted that the Block Development Officer has already, by communication dated 15.07.2022, requested the Tahsildar to remove the encroachment. Even though the request of the Block Development Officer was to enforce the order already passed by the Panchayat under Section 131(2) of Tamil Nadu Panchayats Act, 1994, the direction of this Court, issued in several cases is that the Tahsildar alone is competent to initiate proceedings under Tamil Nadu Land Encroachment Act, 1905, once the Local Body is unable to evict the encroachers. In the said circumstances, this Court finds no merits in the Writ Petition.

7. Accordingly, the Writ Petition is dismissed. However, the third respondent - Tahsildar is directed to initiate action under the provisions of Tamil Nadu Land Encroachment Act,



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1905. It is made clear that the survey conducted earlier by the Tahsildar is valid and the encroachment had already been noticed after conducting survey in the presence of the petitioner. The Tahsildar is directed to issue show cause notice to the petitioner under Section 7 of Tamil Nadu Land Encroachment Act, 1905 and thereafter, pass final order considering the representation or objections of the petitioner within a period of six weeks from the date of receipt of such representation / objections. The Tahsildar is directed to complete the entire exercise of removing the encroachment within a period of two weeks from the date of passing final order under Section 6 of Tamil Nadu Land Encroachment Act, 1905. No costs. Consequently, connected Miscellaneous Petition is closed.

[S.S.S.R., J.] [S.S.Y., J.]
18.07.2022

Index : Yes / No
sj

To

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Revenue Divisional Officer,



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S.S.SUNDAR, J.

and

S.SRIMATHY, J.

sj

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