



W.P.(MD)No.15679 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :20.07.2022

CORAM:

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

W.P(MD)No.15679 of 2022

and

W.M.P(MD)Nos.11288 and 11289 of 2022

Arumugam

... Petitioner

Vs.

1.The Block Development Officer(Village Panchayat),
S.Pudur,
Singampuneri Taluk,
Sivagangai District.

2.The Tahsildar,
Singampuneri Taluk,
Sivagangai District.

3.Aatkondaan

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari calling for the records pertaining to the impugned order passed by the first respondent vide his proceedings in Na.Ka.P1/069/2021, dated 25.03.2022 and quash the same as illegal.

For Petitioners

: Mr.N.R.Balaji

For R-1

: Mr.N.Satheesh Kumar,
Additional Government Pleader

For R-2

: Mr.S.P.Maharajan,
Special Government Pleader



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ORDER

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

The order impugned in this writ petition is a communication sent by the first respondent Block Development Officer, to the president of the Panchayat, to initiate action for removal of encroachment in the land vested with the local body by invoking the provisions of the Tamil Nadu Panchayats Act, 1994.

2. Heard Mr.N.R.Balaji, learned counsel for the petitioner, Mr.N.Satheesh Kumar, learned Additional Government Pleader for the first respondent and Mr.S.P.Maharajan, learned Special Government Pleader for the second respondent.

3. Having regard to the nature of the order proposed to be passed by this Court, no notice is necessary to the third respondent.

4. The petitioner has come forward with the case that the third respondent has made a false and vexatious complaint before



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the first respondent Block Development Officer, alleging that a temple is constructed by encroaching the kanmoi area and that, the respondent may initiate action pursuant to the impugned order.

5. The learned Additional Government Pleader appearing for the first respondent and the learned Special Government Pleader appearing for the second respondent, on instructions, submitted that the petitioner has encroached an extent of 49 ares(more than 1 Acre and 20 cents) and again by encroaching an extent of 21 ares, which vests with the panchayat, a temple is constructed, by keeping the land under enjoyment.

6. This Court has time and again repeatedly held that no encroachment in public land can be permitted even if it is for construction of a temple and its related affairs. The first respondent after taking note of the encroachment, has requested the panchayat president to initiate action under the provisions of the Tamil Nadu Panchayats Act, 1994. However, the encroachment is by the public by constructing temple. Even in cases where the encroachment cannot be removed by the local body, it is the Tahsildar who has to proceed again to remove the encroachment under the Tamil Nadu



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Land Encroachment Act, 1905, as held by the Honourable Full Bench of this Court.

7. Having regard to the submissions of the learned Additional Government Pleader and the learned Special Government Pleader, this Court is inclined to dispose of this writ petition with the following directions:

“(i)The second respondent is directed to conduct survey after issuing notice to the petitioner and demarcate the entire extent which is in encroachment of the petitioner or any other person including the temple. It is thereafter, the Tahsildar shall initiate action for removal of encroachment by resorting to the provisions under the Tamil Nadu Land Encroachment Act, 1905.

(ii)It is made clear that the Tahsildar after issuing notice to the petitioner and other encroachers including the temple, may consider the case of the petitioner and objection of any other encroachers in response to the show-cause notice and pass final orders for eviction. After passing order of eviction, the second respondent is directed to get police protection for carrying out removal of



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encroachment. The whole exercise shall be commenced within two weeks from the date of receipt of a copy of this order and completed within a period of three months from the date of receipt of a copy of this order."

No Costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.] [S.S.Y., J.]
20.07.2022

Index : Yes / No

pm

To

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S.S.SUNDAR, J.
and
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