



W.P(MD)No.9739 of 2015

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.9739 of 2015

and

M.P(MD)Nos.1 & 2 of 2015

A.Thangamalai

... Petitioner

Vs.

1.The District Collector,
Pudukkottai District.

2.The Block Development Officer (E.P),
Panchayat Union, Thirumayam,
Pudukkottai District.

3.The Tahsildar,
Thirumayam,
Pudukkottai District.

4.The President,
Rangiyam Panchayat,
Thirumayam Taluk,
Pudukkotti District.

5.Periyakaruppan

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the 2nd respondent in his proceedings in Na.Ka.A



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7/248/2015 dated 26.03.2015 directing the 4th respondent to remove the encroachments made by the petitioner in the 5th respondent's land in S.No.763/5A, Rangiam Village, Thirumayam Taluk, Pudukkottai District and the consequential notice issued by the 4th respondent in his proceedings dated 03.06.2015 and quash the same.

For Petitioner : Mr.PT.S.Narendra Vasan
For R1 - R4 : Mr.M.Linga Durai
Special Government Pleader
For R5 : Mr.J.Balakumaran
for M/s.R & P Partners

ORDER

The present writ petition has been filed challenging an order passed by the 2nd respondent herein, directing the 4th respondent to remove the encroachment made by the writ petitioner in the 5th respondent's property. Consequentially, the 4th respondent has issued a notice to the writ petitioner to remove the encroachment alleged to have been made by the writ petitioner in the 5th respondent's property.

2. A perusal of the impugned orders in the writ petition, namely 26.03.2015 and 03.06.2015 clearly indicate that there is an allegation that



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the petitioner has encroached upon the private property of the 5th respondent herein. The official respondents cannot invoke their statutory power, for removal of any alleged encroachment in a private property. Hence, the order impugned in the writ petition is liable to be set aside.

3. The learned counsel appearing for the 5th respondent submits that he had given representation to the 1st respondent only for the removal of unauthorized construction made by the writ petitioner. However, the said prayer is not reflected in the impugned orders passed by the respondents 2 and 4 herein. In case, if the 5th respondent is aggrieved over any unauthorized construction put up by the writ petitioner, he is at liberty to initiate independent action.

4. With this liberty, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

01.12.2022

Index : Yes / No
Internet : Yes / No

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R.VIJAYAKUMAR ,J.

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Order made in
W.P(MD)No.9739 of 2015

Dated:
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