



W.P.No.32888 of 2023

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.32888 of 2023

1. R.S.Kandhaswamy
2. K.Kandhayiammal

.. Petitioners

Vs.

1. The District Collector
Salem District, Salem.
2. The Assistant Director
Rural Development (Panchayats)
District Collector Office
Salem.
3. The Block Development Officer cum
The Commissioner
Panamarathupatti Panchayat Union
Salem Taluk and District.
4. The Assistant Engineer
Panamarathupatti Panchayat Union
Panamarathupatti
Salem Taluk and District.

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari, calling for the proceedings of the fourth respondent nil dated together with the subsequent proceedings of the third respondent dated 12.10.2023 passed by different officers namely the third and fourth respondents who are not authorized under the law so as to quash the same.

For the Petitioners : Mr.P.Rathanavel

For the Respondents : Mr.P.Muthukumar
State Government Pleader

ORDER
(Made by the Hon'ble Chief Justice)

Heard Mr.P.Rathanavel, learned counsel for the petitioners and Mr.P.Muthukumar, learned State Government Pleader for the respondents.

2. Learned counsel for the petitioners submits that the Block Development Officer should not have passed the order under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 [in short, "the Act of 1905"]. The said order is without authority.

3. Learned State Government Pleader accedes to the said fact and submits that the competent authority will proceed ahead.

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4. In the light of that, the impugned order passed under 6 of the Act of 1905 is quashed and set aside. Though we have quashed and set aside the order under Section 6 of the Act of 1905, the competent authority is not precluded from proceeding ahead with the removal of the encroachment, if any, in accordance with law. The concerned Tahsildar shall, after considering the reply filed by the petitioner to the notice under Section 7 of the Act of 1905, pass orders under Section 6 of the Act of 1905 in accordance with law.

5. In the light of that, the writ petition stands disposed of. There will be no order as to costs. Consequently, W.M.P.Nos.32526 and 32527 of 2023 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

22.11.2023

Index : Yes/No
Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

(drm)

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