



WEB COPY



W.P.No.36368 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.12.2023

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.36368 of 2023

G.Golda Mary

.. Petitioner

Versus

1.The Collector,
Tiruvallur District.

2.The Tahsildar,
Poonamalle Taluk,
Chennai – 600 056.

.. Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India seeking for issuance of a writ of certiorarified mandamus to call for the records relating to the impugned order of the second respondent in Na.Ka.No.1838/2022/1 dated 30.11.2023 and the consequential order in Na.Ka.No.1838/2022/B1, dated 22.12.2023 and quash the same insofar as the petitioner is concerned and further direct the respondents to exclude her property in S.No.107/1A1B2 bearing Old No.28, New No.12/92, Kannagi Street, Selvaganapathy Nagar, Seneerkuppam, Kumananchavadi, Poonamallee, Chennai-56 from the encroachment removal process.

For Petitioner : Mr.P.Mohanraj

For Respondents : Mr.M.Bindran, AGP



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ORDER

(Order of the Court was delivered by Abdul Quddhose, J.)

This writ petition has been filed challenging the impugned order dated 30.11.2023 as well as the consequential order dated 22.12.2023 passed by the Tahsildar, Poonamallee Taluk, Chennai/second respondent herein.

2. The petitioner claims to be the owner of the property in S.No.107/1A1B2 bearing Old No.28, New No.12/92, Kannagi Street, Selvaganapathy Nagar, Seneerkuppam, Kumananchavadi, Poonamallee, Chennai-56. The petitioner apprehends that under the guise of the impugned order, the respondents may demolish the petitioner's house situated in the aforesaid address. According to the petitioner, since the petitioner's name is reflected in the impugned orders dated 30.11.2023 and 22.12.2023, she apprehends that her house situated in the aforesaid address may also be demolished.

3. Mr.M.Bindran, learned Additional Government Pleader, accepting notice for the respondents, on instructions, would submit that the survey number in question being a water channel, the impugned order has been issued.



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4. The learned counsel for the petitioner also drew the attention of this Court to the documents along with this writ petition, which includes the patta as well as title deeds standing in the name of the petitioner, and would submit that the patta in respect of S.No.107/1A1B2 stands in the name of the petitioner and construction has also been put up by the petitioner and therefore, the respondents do not have any right to demolish the building.

5. As seen from the impugned orders dated 30.11.2023 and 22.12.2023 issued by the second respondent, it is clear that the removal of encroachment pertains to only S.No.106/4 and not S.No.107/1A1B2 as indicated in the impugned order dated 22.12.2023, where the petitioner's property is located. Therefore, the respondents can confine removal of encroachment only in respect of S.No.106/4 as indicated in the impugned order dated 22.12.2023.

6. The petitioner's interest will be protected if this Court directs the respondents to strictly comply with the removal of encroachment pertaining to S.No.106/4 alone as reflected in the impugned order dated 22.12.2023. The learned counsel for the petitioner is also satisfied if such a direction is issued by this Court.



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7. Accordingly, the writ petition is disposed of by directing the respondents to remove encroachment in respect of S.No.106/4 alone as reflected in the impugned order dated 22.12.2023 and if they so desire to remove the encroachment in other survey numbers adjoining the subject land, they shall do so only after following the due procedure established under law. No Costs. Consequently, connected miscellaneous petitions are closed.

(A.Q., J.) (G.A.M., J.)
28.12.2023

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To

- 1.The Collector,
Tiruvallur District.
- 2.The Tahsildar,
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