



W.P(MD)No.1190 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P(MD)No.1190 of 2023
and
W.M.P(MD)No.1098 of 2023**

M.Sivaramkumar

... Petitioner

VS.

1.The District Collector,
O/o.The District Collector,
Dindigul District, Dindigul.

2.The President,
Jambuduraikottai,
Nilakkottai Panchayat Union,
Dindigul District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned notice issued by the second respondent vide Na.Ka.No.2/2022, dated 30.12.2022 and quash the same and consequently forbearing the respondents from interfering with possession of the dwelling house constructed in Natham Survey No.46/9 (Old Survey No.463/9), Door No.4/136A situated at Alagampatti Village, Jambuduraikottai Village Panchayat, Nilakkottai Taluk, Dindigul District.



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For Petitioner : Mr.D.Shanmugaraja Sethupathi
For R – 1 : Mr.M.Sarangan
Additional Government Pleader

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The prayer in this Writ Petition is seeking for issuance of a Writ of Certiorarified Mandamus, to quash the impugned notice issued by the second respondent, dated 30.12.2022 and consequently, forbearing the respondents from interfering with the possession of the dwelling house constructed in Natham Survey No.46/9 (Old Survey No.463/9), Door No.4/136A situated at Alagampatti Village, Jambuduraikottai Village Panchayat, Nilakkottai Taluk, Dindigul District.

2.The learned counsel appearing for the petitioner submitted that the aforesaid land is classified as a 'Grama Natham' and therefore, the second respondent/Panchayat does not vest with the power for issuing the notice to the petitioner under Section 131(2) of the Tamil Nadu Panchayats



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Act, 1994. He also relied on the provisions of Section 131(2) of the Tamil Nadu Panchayats Act, 1994 wherein it reads as follows:-

"It shall be the duty of the Village Administrative Officer of every revenue village to report on encroachments on properties vested in village panchayats or panchayat union councils to the executive authority or the commissioner concerned and to the officer of the Revenue Department, and it shall be the duty of the executive authority or the commissioner concerned to institute proceedings under this Act and secure the removal of the encroachments within such time as may be specified by the Government by general or special order. If the removal of the encroachments has not been secured within the period specified in such order, the officers of the Revenue Department shall institute proceedings under the Tamil Nadu Land Encroachment Act, 1905 and secure such removal."

3.The learned counsel appearing for the petitioner further submitted that since the said land is classified as a 'Grama Natham', it is for the revenue department to take a decision for the removal of



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encroachment, if any, in the Grama Natham land. Therefore, on the ground of lack of jurisdiction, the petitioner has filed the present Writ Petition to quash the impugned order, dated 30.12.2022 passed by the second respondent.

4.Heard the learned counsel appearing on either side and perused the materials available on record.

5.On a perusal of the impugned order, dated 30.12.2022, it is seen that the second respondent has issued the eviction notice under Section 131(2) of the Tamil Nadu Panchayats Act, 1994. When the land is not vested with the Panchayat, the second respondent/Panchayat has no right to serve the notice to the petitioner for removal of encroachment. Therefore, the competent authority is the revenue department and the President of the Panchayat is not having the jurisdiction to issue the impugned order and on the sole ground, the impugned order, dated 30.12.2022 passed by the second respondent is liable to be quashed.

6.Accordingly, the impugned order, dated 30.12.2022, passed by the second respondent is quashed and the Writ Petition is allowed.



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However, liberty is granted to the revenue authorities to proceed in accordance with law, if so advised. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,J.] [L.V.G.,J.]
21.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps

To

- 1.The District Collector,
O/o.The District Collector,
Dindigul District, Dindigul.
- 2.The President,
Jambuduraikottai,
Nilakkottai Panchayat Union,
Dindigul District.



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D. KRISHNAKUMAR,J.
and
L.VICTORIA GOWRI,J.

ps

ORDER MADE IN
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DATED : 21.02.2023