



1

W.P.(MD)NO.2394 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.08.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)Nos.2394 & 2524 of 2022 & 20828 of 2023

**AND W.M.P.(MD)Nos.2066 & 2220 of 2022 &
17243 & 17247 of 2023**

W.P.(MD)No.2394 of 2022

Bakrutheen

... Petitioner

Vs.

1. The District Collector,
Pudukottai District,
Pudukottai.
2. The Tahsildar,
Aranthangi Taluk,
Pudukottai District.
3. The Block development Officer,
Aranthangi Panchayat Union,
Pudukottai District.
4. The President,
Merpanaikadu Village Panchayat,
Aranthangi Taluk,
Pudukottai District.

... Respondents



Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the fourth respondent vide his proceedings Oo.Kaditham No.07/2021-22 dated 24.01.2022 and quash the same as illegal.

For Petitioner : Mr.T.Lenin Kumar
For R-1 to R-3 : Mr.R.Ravindran,
Additional Advocate General,
assisted by,
Mr.K.Balasubramani,
Special Government Pleader.

For R-4 : Ms.S.Vinodhini

* * *

W.P.(MD)No.2524 of 2022

Sannath Beevi

... Petitioner

Vs.

The President,
Merpanaikadu Village Panchayat,
Aranthangi Village Panchayat Union,
Pudukottai District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the notice passed by the respondent in letter No.V.Letter No.07/2021-2022 dated 24.01.2022 and quash the same as arbitrary and illegal.



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3

W.P.(MD)NO.2394 OF 2022

For Petitioner : Mr.K.Baalasundharam

For Respondent : Mr.B.Rooban

* * *

W.P.(MD)No.20828 of 2022

Suseela

... Petitioner

Vs.

1. The Tahsildar,
Thuraiyur Taluk,
Trichy District.

2. The Block Development Officer,
Panchayat Union,
Uppiliyapuram,
Trichy District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned orders passed by the second respondent in her proceedings Na.Ka.No.1/2023 dated 16.06.2023 and the consequential proceedings in Na.Ka.No.A1/0002/2023 dated 15.07.2023 and “Nil” dated 10.08.2023 and quash the same as illegal.

For Petitioner : Mr.T.Leninkumar

For R-1 & R-2 : Mr.R.Ravindran,
Additional Advocate General,
assisted by,
Mr.K.Balasubramani,
Special Government Pleader.

* * *

**COMMON ORDER**

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Heard the learned counsel appearing for the writ petitioners and the learned Additional Advocate General assisted by the learned Special Government Pleader appearing for the official respondents and the learned counsel appearing for the private respondent.

2. In all these writ petitions, the panchayat presidents have issued notices under Section 131 of the Tamil Nadu Panchayats Act 1994. The said notices have been assailed primarily on the ground of jurisdiction.

3. The learned Additional Advocate General drew our attention to a catena of decisions:-

a) 2008-3-L.W.548 (G.Radhakrishan V. The President, Edayakottai Panchayat)

b)W.P.No.14394 of 2020 vide order dated 07.10.2020 (Vadamalai V. The Block Development Officer, Perambalur District)

c) W.P.Nos.16264 of 2021 etc. Batch vide order dated 22.03.2022 (Ganesan V. The Tahsildar, Namakkal District).



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4. It has been consistently held that while the executive authority of the local body can initiate action for removal of encroachment, physical removal can be done only by the authority competent under the Tamil Nadu Encroachment Act 1905. Section 131(2) of the Tamil Nadu Panchayats Act is as follows:-

**“131. Prohibition against obstructions
in or over public roads, etc.-**

(1) ...

(2) 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 either suo motu or on obtaining a report from the Village Administrative Officer in this regard 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 (Tamil Nadu Act III of 1905) and secure such removal.”

5. There is no need to interfere with the impugned order. However, the respondents are directed to adhere to the statutory mandate set out in Section 131(2) of the Tamil Nadu Panchayats Act. It has been held in the aforesaid decisions that any action taken by the executive authority of the local body can be assailed by the aggrieved individual under the relevant provisions of the Tamil Nadu Panchayats Act. If such challenge is not mounted and the order of the executive authority remains intact, the jurisdictional Tahsildar is obliged to take further action for removal of the encroachment as per



the provisions of the Tamil Nadu Land Encroachment Act. As and when the jurisdictional Tahsildar receives proposal from the executive authority of the panchayat, he has to take action in a time bound manner. This of course would be subject to challenge at the instance of the aggrieved individuals. This writ petition stands disposed of accordingly. No costs.

(G.R.SWAMINATHAN, J.) & (B.PUGALENDHI, J.)

30th AUGUST 2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No

PMU

To:

1. The District Collector,
Pudukottai District, Pudukottai.
2. The Tahsildar,
Aranthangi Taluk, Pudukottai District.
3. The Block development Officer,
Aranthangi Panchayat Union,
Pudukottai District.



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8

W.P.(MD)NO.2394 OF 2022

G.R.SWAMINATHAN, J.

AND

B.PUGALENDHI, J.

PMU

W.P.(MD)No.2394 of 2022

30.08.2023