



WEB COPY

W.P.(MD) No.2079 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2023

CORAM:

**THE HON'BLE MR.T.RAJA, THE ACTING CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR**

**W.P.(MD) No.2079 of 2023
and
W.M.P(MD)Nos.1857 & 1858 of 2023**

C.Nagammal

... Petitioner

-VS-

1.The Tahsildar,
Singampunari – 630 502,
Sivagangai District.

2.The Block Development Officer,
Singampunari – 630 502,
Sivagangai District.

3.The President,
A.Kaalapur Village Panchayat,
Sivagangai District – 630 501.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings No.Nil, dated Nil issued by the third respondent President (served to the petitioner on 27.01.2023) and all proceedings in furtherance thereof, quash the same as illegal and void.



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For Petitioner : Mr.P.Muthuvel
For R1 & R2 : Mr.P.T.Thiraviyam
Government Advocate
For R3 : Mr.V.Nirmal Kumar
Government Advocate

ORDER

**[Order of the Court was made by
The Hon'ble The ACTING CHIEF JUSTICE]**

C.Nagammal, W/o. Late P.Chinnaiah, has filed this Writ Petition challenging the impugned notice dated Nil issued by the President, A.Kaalapur Village Panchayat, Sivagangai District/third respondent herein, on the ground that the impugned eviction notice ought not to have been issued directing the petitioner to remove the alleged encroachments without giving any show cause notice calling upon her to submit her explanation. Moreover, the land in question belongs to the Village Panchayat. Therefore, the third respondent has no authority to issue the impugned notice and he can issue notice only under Section 131(2) of the Tamil Nadu Panchayat Act.

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



3. But the perusal of the impugned notice shows that it does not mention whether this has been issued under the Tamil Nadu Land Encroachment Act, 1905, or the Tamil Nadu Panchayats Act, 1994. The only thing is that the third respondent has not mentioned the relevant provision. However, perusal of the impugned notice shows that a final order has been passed, whereas, perusal of Section 131 (2) of the Tamil Nadu Panchayats Act, 1994, says that 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 removal of the encroachments within such time as may be specified by the Government by general or special order.

4. Since the impugned eviction notice has been issued without issuing any show cause notice calling upon the petitioner



to submit her explanation, we treat the impugned notice issued by the third respondent as a notice issued under Section 131(2) of the Tamil Nadu Panchayats Act, 1994. The petitioner is given two weeks time from the date of receipt of a copy of this order to give her explanation to the impugned notice, failing which, the third respondent can take appropriate action. Needless to mention that if the petitioner submits any explanation along with any other documents, the same shall be considered and final orders can be passed.

5. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

[T.R., A.C.J.] [D.K.K., J.]
02.02.2023

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

To

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and
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