



W.P.(MD)No.2750 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD) No.2750 of 2023
and W.M.P.(MD)No.2513 of 2023

Thangammal

... Petitioner

Vs.

- 1.The District Collector,
Tirunelveli District.
- 2.The Tahsildar,
Radhapuram Taluk,
Tirunelveli District.
- 3.Block Development officer,
Union Office at Valliyur,
Tirunelveli District.



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4.The President,
Aavaraikulam Village Panchayat,
Radhapuram Taluk,
Tirunelveli District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent's proceeding in Na.Ka.No.Aa3/41842022, dated 13.01.2023 and quash the same as illegal consequently, direct the respondents measuring the petitioner's property.

For Petitioner : Mr.N.S.Ramakrishna Dass

For Respondents : Mr.K.Balasubramani,
Special Government Pleader

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent's proceeding in Na.Ka.No.Aa3/41842022, dated 13.01.2023 and quash the same as illegal and consequently, direct the respondents to measure the petitioner's property.



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3. The learned counsel appearing for the petitioner submitted that the third respondent without conducting a proper survey and without issuing any show cause notice, has passed the impugned order and therefore, the same is liable to be set aside.

4. The learned Special Government Pleader appearing for the respondents, fairly admitted that without issuing any prior notice, the impugned order has been passed and therefore, the impugned notice may be treated as show cause notice and the petitioner may be directed to submit her objections, which will be considered by the authorities concerned and only then, appropriate action will be taken for removal of encroachment, if any, in the place in question.

5. Recording the said submissions, we are inclined to pass the following order:



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1) the impugned order dated 13.01.2023, passed by the 3rd respondent is treated as show cause notice;

2) the petitioner is directed to file her objections / reply to the same before the 3rd respondent, along with all supporting materials, within a period of two (2) weeks from the date of receipt of a copy of this order;

3) after receipt of the same, the 3rd respondent shall consider such objections and pass appropriate orders in accordance with law within a period of four [4] weeks thereafter; and

4) the third respondent shall make necessary arrangement to survey the property in question in the presence of the petitioner as well as the parties concerned and if there is any encroachment, the 3rd respondent is directed to remove the same, without any further delay.



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6. With the above directions, this Writ Petition is disposed of. No costs.

Consequently, connected Miscellaneous Petition is closed.

[D.K.K., J.] [L.V.G., J.]
10.02.2023

NCC : Yes / No

Index : Yes / No

vsm

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