



W.P.(MD) No.3608 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.3608 of 2023

and

W.M.P.(MD)No.3356 of 2023

Jayalakshmi

... Petitioner

-Vs-

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

2.The Revenue Divisional Officer,
O/o. Revenue Divisional Office,
Sankarankovil, Tenkasi District.

3.The Tahsildar,
Sankarankovil Taluk,
Tenkasi District.

Page 1 of 6



W.P.(MD) No.3608 of 2023

WEB COPY

4.The Revenue Inspector,

Karivalamvandanallur,

Sankarankovil Taluk, Tenkasi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned notice of the 4th respondent dated 09.02.2023 under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 and quash the same as unconstitutional.

For Petitioner : Mr.D.Balamurugapandi

For Respondents : Mr.P.T.Thiraviyam,

Government Advocate

ORDER

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

The show cause notice dated 09.02.2023 issued by the 4th respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, is under challenge in this Writ Petition.

2.Mr.P.T.Thiraviyam, learned Government Advocate takes notice on behalf of the respondents. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

Page 2 of 6



W.P.(MD) No.3608 of 2023

WEB COPY

3. According to the petitioner, earlier one N.Venkatasamy Naicker, G.Kannan and R.Jayakumar filed W.P.(MD)No.24059 of 2018, seeking removal of encroachment made in S.Nos.9/1 and 6/12B1 in Solaicheri Village, Pandapuli Panchayat, Sankarankovil Taluk, Tirunelveli District, wherein the petitioner and one Srinivasan were arrayed as the respondents 4 and 5 and the same was disposed of by this Court, vide order dated 10.01.2019, directing the official respondents to remove the encroachment by following due process of law. Pursuant to the said order, the Block Development Officer concerned issued a notice dated 23.12.2020, directing the petitioner to remove the encroachment. On receipt of the said notice, the petitioner has also removed the encroachment. According to the petitioner, as of now, there is no encroachment in Survey No. 9/1 as alleged in the impugned show cause notice issued by the 4th respondent. Further, on receipt of the impugned notice, when the petitioner approached the 4th respondent with her explanation, the 4th respondent directed the petitioner to remove the encroachment immediately. Therefore, the petitioner is before this Court with the aforesaid prayer.

Page 3 of 6



WEB COPY

W.P.(MD) No.3608 of 2023

4.Considering the facts and circumstances of the case, we are inclined to direct the petitioner to raise all her contentions by way of an objection / explanation to the 3rd respondent, within a period of one week from the date of receipt of a copy of this order. On receipt of such objection / explanation, the 3rd respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law, within a period of four weeks thereafter and if there is any encroachment in the place in question, the same would be removed by following due process of law.

5.With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] & [L.V.G., J.]
22.02.2023

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

MYR

Page 4 of 6



W.P.(MD) No.3608 of 2023

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WEB COPY



W.P.(MD) No.3608 of 2023

D.KRISHNAKUMAR, J.

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MYR

W.P.(MD)No.3608 of 2023

22.02.2023

Page 6 of 6