



W.P.(MD)No.5002 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MRS. JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.5002 of 2023

and

W.M.P(MD)No.4664 of 2023

V.Pandiammal

: Petitioner

Vs.

- 1.The District Collector,
Office of the Collectorate, Madurai.
- 2.The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Melur, Madurai District.
- 3.The Block Development Officer,
Block Development Office,
Madurai East, Madurai.
- 4.The Tahsildar,
Madurai East Taluk Office,
Madurai.



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5. The President/Executive Officer,
Andar Kottaram Panchayat,
Madurai East, Madurai.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorari to call for the records pertaining to the impugned order passed by the 5th respondent vide his proceedings in Letter No.154/20101/2023 dated 03.02.2023 and quash the same as illegal.

For Petitioner : Mr.D.Senthil for
Mr.V.Malaiyendran
For Respondents : Mr.A.Baskaran
Additional Government Pleader

ORDER

(Order of the Court was made by R.SUBRAMANIAN, J)

Challenge is the proceedings of the President of Andar Kottaram Village, dated 03.02.2023 issued under Sections 131, 134(4), 222 and 242(2-XXXV & XXXVI) of the Tamil Nadu Panchayat Act. By said proceedings, the petitioner has been called upon to remove the alleged encroachments made over to the extent of 20 Ares in S.No.63/2b1, which is classified as Government Poramboke cart-track. The notice also warns the



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petitioner that if the petitioner fails to comply with the notice, the Panchayat will take possession of the property by removing the encroachment.

2. Mr.D.Senthil, learned counsel appearing for the petitioner would submit that Section 131 of the Tamil Nadu Panchayat Act, 1905 does not enable the Panchayat to evict the encroachers. While 131(1) prohibits encroachments over public road, Section 131(2) only enable the Panchayat to secure the removal of encroachment through a General or Special order of the Government. If the panchayat is unable to secure such removal, it has to seek launching of proceedings under the Tamil Nadu Land Encroachment Act, 1905 through the Revenue Department. According to the learned counsel, a reading of Section 131(2) would show that there is no power or machinery provided under the Tamil Nadu Panchayat Act for removal of encroachment.

3. Mr.A.Baskaran, learned Additional Government Pleader appearing for the respondents 3 and 5 is unable to bring any other provision in the Act, which enables removal of encroachment by the Panchayat.



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4.In the light of the clear provisions of Section 131(2), we do not think that we can sustain the order impugned in this writ petition. This writ petition is, therefore, allowed. The order impugned in this writ petition is set aside leaving it open to the respondents, particularly, the respondents 3 and 5 to seek eviction by launching proceedings under the Tamil Nadu Land Encroachment Act through the Revenue Department. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.] & [L.V.G., J.]
08.03.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

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4.The Tahsildar,
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