

W.P.(MD) Nos.6676, 6677, 6678, 6679, 6680 &
6681 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) Nos.6676, 6677, 6678, 6679, 6680 & 6681 of 2023
and
W.M.P.(MD) Nos.6306, 6313, 6308, 6309, 6310, 6307 & 6311 of 2023**

W.P.(MD) No.6676 of 2023:

Ponnuchamy

... Petitioner

-vs-

- 1.The District Collector
Office of the District Collector
Virudhunagar District
- 2.The Revenue Divisional Officer /
Sub Collector
Sivakasi
Virudhunagar District
- 3.The Tahsildar
Watrap Taluk Office
Virudhunagar District

4.The Block Development Officer
Village Panchayat
Watrap Taluk
Virudhunagar District

5.The President
Khansabpuram Village Panchayat
Watrap Taluk
Virudhunagar District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records pertaining to the impugned unsigned notice of eviction passed by the fifth respondent vide his proceeding Nil, dated Nil and quash the same as illegal and for other reliefs, within the time stipulated by this Court.

For Petitioner : Mr.J.Lawrance

For Respondents : Mr.S.P.Maharajan
Special Government Pleader for R1 to R3
Mr.P.Thilakkumar
Government Pleader for R4 & R5

O R D E R

[Order of the Court was made by R.SUBRAMANIAN, J.]

Challenge in all these writ petitions is to the action of the President of Khansabpuram Village Panchayat, Watrap Taluk, Virudhunagar District, in issuing notices under Sections 131(2) and 222 of the Tamil Nadu Panchayats Act, 1994, threatening to evict the petitioners from the Government poromboke land, which is in their occupation.

2. Earlier in 2020, similar notices were issued by the President, which was subject matter of challenge in W.P.(MD) No.18431 of 2020 etc. batch. This Court, by order dated 19.10.2022, directed the petitioners therein to file their objections to the proposed eviction and required the Authority to pass orders. Thereafter, the petitioners had made a request for issuance of patta for the lands, which are under their occupation, citing the fact that they live below the poverty line and they have been carrying on business in the said lands for a quite long time. It is thereafter, the impugned notices were issued requiring the petitioners to show cause as to why they should not be evicted.

3. Learned counsel appearing for the petitioners would submit that the President of Village Panchayat has no power to conduct enquiry regarding encroachment. Relying on the language of Section 131(2) of the Tamil Nadu Panchayats Act, 1994, learned counsel for the petitioners would submit that the President can only make a request to the encroachers to vacate and if they fail to vacate, the President has to necessarily address the revenue officials for removal of encroachments under the Tamil Nadu Land Encroachment Act, 1905.

4. Contending contra, learned Special Government Pleader appearing for the respondents 1 to 3 would submit that the impugned notices being only show cause notices, this Court may not entertain the writ petitions at this stage.

5. We do not think that we can throw out the writ petitions on this ground.

6. Section 131 (2) of the Tamil Nadu Panchayats Act, 1994 reads as follows:

“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.”

7. A reading of the above provision would show that the power to evict is not vested with the Panchayat President. He can request the encroachers to vacate, by a General or Special order. If the encroachers fail to vacate, the Panchayat President can seek aid of the revenue officials to launch

proceedings under the provisions of the Tamil Nadu Land Encroachment Act, 1905. We, therefore, dispose of the writ petitions with the direction to the Revenue Department to consider the application for grant of Patta made by the petitioners on 19.12.2022, reserving liberty to the President of Khansabpuram Village Panchayat to move the revenue authorities for eviction by following due process of law. Learned counsel for the petitioners is required to forward the representation dated 19.12.2022 to the third respondent once again by registered post. No costs. Consequently, connected miscellaneous petitions are closed.

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

28.03.2023

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

krk

To:

- 1.The District Collector,
Office of the District Collector,
Virudhunagar District.
- 2.The Revenue Divisional Officer /
Sub Collector,
Sivakasi, Virudhunagar District.

- 3.The Tahsildar,
Watrap Taluk Office,
Virudhunagar District.
- 4.The Block Development Officer,
Village Panchayat,
Watrap Taluk,
Virudhunagar District.
- 5.The President,
Khansabpuram Village Panchayat,
Watrap Taluk,
Virudhunagar District.

W.P.(MD) Nos.6676, 6677, 6678, 6679, 6680 &
6681 of 2023

R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

krk

W.P.(MD) Nos.6676, 6677, 6678,
6679, 6680 & 6681 of 2023
and
W.M.P.(MD) Nos.6306, 6313, 6308,
6309, 6310, 6307 & 6311 of 2023

28.03.2023