



W.P.(MD)No.5924 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MRS. JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.5924 of 2023

and

W.M.P(MD)No.5513 of 2023

Alagumeenal

: Petitioner

Vs.

1.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

2.The Tahsildar,
Karaikudi Taluk,
Sivagangai District.

3.The President,
Sakkavayal Panchayat,
Sivagangai District.

4.Veeramani

: Respondents



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PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned notice of the third respondent through his proceedings in Na.Ka.No.Pi2.1129/2020 dated 20.09.2022 and quash the same as illegal, consequently, direct the 2nd respondent to do a survey in Survey Nos.291/1, 291/4, 291/14 & 291/15 situated at Sakkavayal village, Karaikudi Taluk.

For Petitioner : Mr.D.Venkatesh

For Respondents : Mr.A.Baskaran
Addl. Govt. Pleader for R1 and R2
Mr.P.T.Thiraviyam
Govt. Advocate for R3

ORDER

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

Mr.A.Baskaran, learned Additional Government Pleader takes notice for the respondents 1 and 2. Mr.P.T.Thiraviyam, learned Government Advocate takes notice for the third respondent. Notice for the fourth respondent is deemed unnecessary. By consent, this writ petition is taken up for final disposal at the admission stage itself.



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2.The grievance of the petitioner is that the impugned notice dated 20.09.2023 has been issued by the President of Panchayat, who has no jurisdiction under the provisions of the Tamil Nadu Panchayat Act, 1994, to seek eviction of encroachers.

3.Section 131(2) of the Tamil Nadu Panchayat Act reads as follows:-

“131(2). 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 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 and secure such removal.”

4.Reading of the above said provision would demonstrate that the



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President or Executive Authority of the Panchayat has no power to remove the encroachments. It is for them to report the matter to the Revenue Department to proceed under the Tamil Nadu Land Encroachments Act, 1905.

5.In view of the same, the impugned proceedings are without jurisdiction. Hence, this writ petition is allowed and the impugned proceedings of the third respondent in Na.Ka.No.Pi2.1129/2020 dated 20.09.2022 are quashed. It is open to the third respondent to report the matter to the second respondent and seek action under the Tamil Nadu Land Encroachments Act, 1905.

6.This writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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

17.03.2023

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

To
1.The Revenue Divisional Officer,

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- Devakottai,
Sivagangai District.
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- 3.The President,
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Sivagangai District.

R.SUBRAMANIAN., J

AND

L.VICTORIA GOWRI.,J



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