



W.P(MD)No.13520 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.06.2023

CORAM :

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

W.P(MD)No.13520 of 2023

and

W.M.P(MD)Nos.11419 & 11420 of 2023

1.Mrs.Alagu

2.Mr.Muthaiah

... Petitioners

vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Melur Taluk,
Madurai District.

3.The Block Development Officer(Village Panchayat),
Melur Panchayat Union,
Madurai District.

4.The Panchayat President,
Semminipatti Panchayat,
Melur Panchayat Union,
Madurai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records relating to the impugned notice dated 17.05.2023 issued by the fourth respondent with regard to serial number:6 and 7 and quash the same as illegal.



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W.P(MD)No.13520 of 2023

For Petitioner : Mr.R.J.Karthick
For Respondents : Mr.S.P.Maharajan,
Special Government Pleader

ORDER

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

Challenge in this writ petition is to the impugned notice issued by the fourth respondent, Panchayat President, Semminipatti Panchayat, dated 17.05.2023, with regard to removal of encroachment.

2. Because of a wrong representation made by the learned Government Advocate before a Division Bench of this Court on 24.09.2021 in W.P(MD)No.17354 of 2021, a Division Bench of this Court had directed the Panchayat President to remove the encroachment. Upon a reading of Section 131(2) of the Tamilnadu Panchayat Act, 1994, we have held that the Panchayat President has no power to remove the encroachments. He has to seek assistance of Revenue Tahsildar, who will be entitled to remove encroachments under Sections 6 and 7 of the Land Encroachment Act, 1905. Section 131(2) of the Tamilnadu Panchayat Act, 1994, is only an enabling provision by which the Panchayat President can require the encroachers to remove the encroachers by themselves. If they failed to comply with the requirements, it is for the Panchayat President to approach the concerned Revenue Authority for removal of encroachments. Therefore,



W.P(MD)No.13520 of 2023

the impugned notice, dated 17.05.2023, issued by the President of Semminipatti Panchayat, Melur Panchayat Union, Madurai District, is quashed. The writ petition stands allowed. It is open to the respondents to take appropriate steps under the relevant law for removal of encroachments.

3. It is open to the learned Special Government Pleader to seek further time before the Court in which the earlier writ petition is pending, in view of the quashment of the proceedings.

No Costs. Consequently, connected Miscellaneous Petitions are closed.

(R.SUBRAMANIAN, J.) & (L.VICTORIA GOWRI, J.)
08.06.2023

Index : Yes / No
Neutral Citation : Yes / No
pm

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W.P(MD)No.13520 of 2023

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and
L.VICTORIA GOWRI, J.
pm

ORDER MADE IN
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