



W.P.(MD) No.15099 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2023

CORAM:

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN**

W.P.(MD) No.15099 of 2023

and

W.M.P.(MD) No.12708 of 2023

S.Ramaiah

... Petitioner

-VS-

1. The Block Development Officer,
(Block Panchayat),
Thirumayam Panchayat Union,
Thirumayam, Pudukottai District.
2. The Tahsildar,
Thirumayam Taluk, Pudukottai District.
3. K.Kumaravelu

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari calling for the records relating to the impugned order in the form of notice passed by the 1st respondent in his proceedings Na.Ka.A4/2704/2019 dated 14.06.2023 and quash the same as illegal, arbitrary and in violation of provisions of Tamilnadu Panchayat Act, 1994.

For Petitioner : Mr.D.Kirubakaran



W.P.(MD) No.15099 of 2023

WEB COPY

For Respondents : Mr.P.T.Thiraviam
Government Advocate for R1
Mr.S.P.Maharajan
Special Government Pleader
for R2

ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

We have heard Mr.D.Kirubakaran, learned counsel for the petitioner; Mr.P.T.Thiraviam, learned Government Advocate for the first respondent and Mr.S.P.Maharajan, learned Special Government Pleader for the second respondent.

2. Learned counsel for the petitioner submits that under Section 131(3) of the Tamil Nadu Panchayats Act, 1994, notice has been issued to the petitioner for removal of encroachment. The petitioner has not encroached upon any property. The petitioner is legitimately occupying his property which the petitioner is entitled to. Learned counsel submits that no notice was issued prior to the impugned action.

3. Learned Government Advocate for the first respondent and the learned Special Government Pleader for the second respondent submit that



W.P.(MD) No.15099 of 2023

WEB COPY

the impugned notice is only directing the petitioner to remove the encroachment. If the petitioner does not remove the encroachment, then, upon the request of the first respondent, Tahsildar may issue notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905.

4. As it has been submitted by the learned Government Advocate for the first respondent and the learned Special Government Pleader for the second respondent that the respondents would adhere to the provisions of the Land Encroachment Act before taking any action, the petitioner would be entitled to raise all possible defences to the notice under Section 7 of the Land Encroachment Act. The defences certainly have to be considered by the authorities on its own merits.

5. With these observations, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

[S.V.G., .C.J.]

[R.S.M., J.]

23.06.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

PKN



W.P.(MD) No.15099 of 2023

WEB COPY

To:

1. The Block Development Officer,
(Block Panchayat),
Thirumayam Panchayat Union,
Thirumayam, Pudukottai District.
2. The Tahsildar,
Thirumayam Taluk, Pudukottai District.



WEB COPY



W.P.(MD) No.15099 of 2023

THE HONOURABLE CHIEF JUSTICE
and
R.SUBRAMANIAN, J.

PKN

W.P.(MD) No.15099 of 2023

23.06.2023