



W.P(MD)No.15160 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2023

CORAM :

**THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN**

W.P.(MD)No.15160 of 2023
and
W.M.P.(MD)No.12770 of 2023

K.T.Thilagar

... Petitioner

vs.

- 1.The District Collector,
Office of the District Collector Office,
Madurai District.
- 2.The District Revenue Officer,
District Collector Campus,
Madurai District.
- 3.The Revenue Divisional Officer,
Office of the District Collector Office,
Madurai District.
- 4.The Tahsildar,
Madurai North Taluk,
Madurai District.
- 5.The President/Executive Officer,
Usilampatti Panchayat,
Madurai West Panchayat Union,
Madurai District.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned eviction notice dated NIL, issued by the 5th respondent, quash the same as illegal, arbitrary and consequently, direct the respondents to take appropriate action for the wrong classification of land as "Orusanthu" which stood as "Gramma Natham" in Survey No.66/1 in Usilampatti Village, Karuanur Post, Madurai North Taluk, Madurai and restore the same into its original position as Gramma Natham.

For Petitioner : Mr.M.Mithun

For Respondent Nos.1 to 4 : Mr.A.Baskaran
Additional Government Pleader

For Respondent No.5 :Mr.P.Thilakkumar
Government Pleader

ORDER

**(Order of the Court was made by
The Hon'ble Chief Justice)**

The matter was circulated in the morning on the ground that the respondents are removing the construction of the petitioner on the writ land.



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2. Learned counsel for the petitioner submits that the writ land is the private property of the petitioner. No encroachment has been made by the petitioner. The petitioner is legitimately occupying the land. The land in the revenue record also shows that it is a Gramma Natham.

3. Learned Government Pleader for respondent No.5 submits that earlier W.P.(MD)No.3125 of 2023 was filed by one A.Gunasekaran, for removal of the encroachment. The Division Bench of this Court on 16.02.2023 passed an order in the said Writ Petition, directing the authorities to take steps in accordance with law. Thereafter, a notice for survey was issued. The petitioner obstructed the survey. Thereafter, on police protection, the survey was conducted on 17.06.2023. It was found that the petitioner has made encroachment on the pathway. Therefore, a contempt petition was filed, as such, the impugned notice was issued to the petitioner.

4. Only because the contempt petition has been filed, the respondents are not supposed to deviate from the provisions of law.



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5. Learned Government Pleader for respondent No.5 submits that the communication would be made to the Tahsildar, Madurai North, for resorting Section 7 of the Tamil Nadu Land Encroachment Act, 1905 [hereinafter referred to as "the Act"], wherein notice would be given to the petitioner. After obtaining reply from the petitioner, further proceedings would be conducted under Section 6 of the Act and till an order is passed under the Act, the respondents would not take any action with regard to the construction of the petitioner on the writ property.

6. The submission of the learned Government Pleader for respondent No.5 is accepted.

7. As it is submitted that now the procedure under Sections 7 and 6 of the Act would be followed, the apprehension based on the impugned notice that the construction of the petitioner would be demolished and/or removed no longer subsists.



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8. As observed above, the respondents will follow the procedure under Sections 7 and 6 of the Act before taking any action on the writ property of the petitioner.

9. With the above observations, the writ petition is disposed of. There will be no order as to costs. Consequently, C.M.P.(MD)No. 12770 of 2023 is closed.

[S.V.G., CJ.]

[R.S.M., J.]

23.06.2023

Index : Yes / No
Neutral Citation : Yes / No
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5.The President/Executive Officer,
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THE HON'BLE CHIEF JUSTICE
and
R.SUBRAMANIAN, J.

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ORDER MADE IN
W.P.(MD)No.15160 of 2023
DATED : 23.06.2023