



W.(MD)No.16474 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 07.07.2023

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE M.NIRMAL KUMAR**

**W.P.(MD)No.16474 of 2023
and W.M.P.(MD)Nos.13761 & 13762 of 2023**

P.Jeyakumar

.. Petitioner

Vs.

1.The Thasildar,
Madurai West,
Madurai.

2.The Block Development Officer,
Union Office,
Thiruparankundram,
Madurai.

3.The President / Executive Officer,
Achampatti Panchayat,
Erukudi, Madurai.

4.I.Bhavani

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, calling for the records relating to the orders passed by the 1st respondent in Na.Ka.No.4809/2022/E dated 22.06.2023 and quash



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the same and consequently quash the impugned notice passed by the third respondent in Na.Ka.No.1/2023-2024/Ne 1 dated 28.06.2023.

For Petitioner : Mr.Subash Babu, Senior Counsel
for M/s.Subash Law Office

For Respondents : Mr.D.Sachi Kumar,
Addl Government Pleader for R1
Mr.P.Thilak Kumar,
Government Pleader for R2 & R3
Mr.R.Balakrishnan for R4

ORDER

(Order of the Court was made by M.S.RAMESH,J.)

By consent, this Writ Petition is taken up for final disposal at the admission stage itself.

2. Apprehending that the petitioner's possession over the property in S.No.13/1A1A1, Achampatti Village, Madurai would be disturbed in view of the notice issued by the third respondent, the present Writ Petition has been filed, challenging the said notice.

3. On a perusal of the notice dated 28.06.2023, it is seen that the same ought to have been issued under Section 131 of the Tamil Nadu Panchayats



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Act, 1994. As per Section 131(2) of the Tamil Nadu Panchayats Act, 1994, the Village Administrative Officer of every revenue village is required to report on encroachments on the properties vested in Village Panchayats or Panchayat Union Councils to the Executive Authority or the Commissioner concerned and secure the removal of the encroachments within a specified time. Even after such reports has been made and the encroachers do not vacate the premises, the officers of the Revenue Department are required to follow the procedure contemplated under the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905) for the purpose of evicting the encroachers.

4. Thus, the present impugned order requires to be followed by the proceedings under the Tamil Nadu Land Encroachment Act, 1905 by issuance of a notice under Section 7 and then followed by an order under Section 6 of the Tamil Nadu Land Encroachment Act, 1905. While such a procedure has been contemplated for the purpose of evicting the encroachers, the apprehension of the petitioner that he may be evicted pursuant to the present impugned notice issued under Section 131 (2) of the Tamil Nadu Panchayats Act, 1994, cannot be sustained. However, the



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petitioner apprehends that the third respondent herein may take coercive steps to evict him.

5. In this regard, it would be pertinent to point out here that earlier one I.Bhavani, who is the 4th respondent herein had filed a Writ Petition before this Court in W.P.(MD)No.14627 of 2021 seeking for a direction to the revenue authorities to remove the alleged encroachment made by the petitioner herein in the subject property. This Court, while disposing of the Writ Petition, had directed the authorities to follow the procedure for removal of encroachment, through its order dated 27.10.2022, in the following manner:

“5. In view of the above submissions of the learned counsel for the parties, without expressing any opinion on the merits of the claim made either by the petitioner or by the fourth respondent, this Writ Petition is disposed of, with a direction to the respondents 1 to 3, to survey the land in question in the presence of the petitioner, fourth respondent and all other parties concerned and if there is any encroachment as claimed by the parties, necessary action shall be taken for removal of the encroachment in the aforesaid pathway, after affording sufficient opportunity to all the parties concerned and by following due process of law. Such an exercise shall be completed within a



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period of eight weeks from the date of receipt of a copy of this order. No costs."

6. The aforesaid extract is self explanatory. Thus, in view of the procedure contemplated under Section 131(2) of the Tamil Nadu Panchayats Act, 1994, as well as under the provisions of the Tamil Nadu Land Encroachment Act, 1905, apart from the specific directions of this Court made in W.P.(MD)No.14627 of 2021, the respondents herein will not be entitled to resort to any coercive tactics, other than the method prescribed under the statutory provisions.

7. Accordingly, this Writ petition stands closed with the liberty to the respondents 1 to 3 to follow the procedure contemplated under the Tamil Nadu Land Encroachment Act, 1905, for the purpose of evicting the encroachers, if any. Till such time, they shall not resort to any coercive action for removal of encroachers. No costs. Consequently, connected miscellaneous petitions are closed.

(M.S.R.,J.) (M.N.K.,J.)
07.07.2023

NCC : Yes / No
Index : Yes / No
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and
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vsm

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