



W.P(MD)No.17353 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.P(MD)No.17353 of 2023
and
W.M.P(MD)Nos.14543 and 14544 of 2023**

Narkeesh Begam

... Petitioner

-VS-

1. The District Collector,
O/o. the District Collector,
Madurai District.

2. The District Revenue Officer,
Madurai District.

3. The Block Development Officer,
Thirupparankundram,
Madurai.

4. The Tahsildar,
Madurai West Taluk,
Madurai.

5. The President,
Vilacheri Panchayat,
Madurai.

6. M.Raji Banu

...Respondents



W.P(MD)No.17353 of 2023

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to calling for the records pertaining to the impugned proceedings of 3rd respondent in Na.Ka.No.900/2020/52 dated 27.06.2023 and consequential notice of 5th respondent dated 13.07.2023 and quash the same.

For Petitioner : Mr.R.Selvaraj
For R1 to R5 : Mr.N.Sachi Kumar
Additional Government Pleader

ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

Challenging the order passed by the 3rd respondent dated 27.06.2023 and the consequential notice issued by the 5th respondent dated 13.07.2023, this writ petition is filed to quash the same.

2. The petitioner states that she has constructed a compound wall without encroaching into any public land and therefore, the impugned eviction notice without even issuing a show cause notice to the petitioner is invalid and illegal.



W.P(MD)No.17353 of 2023

3. The 3rd respondent by the impugned eviction order, directed the petitioner to remove the encroachment made by her by construction of a compound wall to an extent of 0.00.01 hectares. From the impugned order dated 27.06.2023, it is not known whether such encroachment is in public pathway or in a land vested with the panchayat. Except stating that there is an encroachment, the details of the encroachment are not given to the understanding of any one. The impugned order dated 27.06.2023 is also addressed by the Block Development Officer to the President of Panchayat of Vilacheri Panchayat. Pursuant to the said order, the 5th respondent has issued an eviction notice dated 13.07.2023 to the petitioner. Therefore, the impugned orders suffer from serious infirmities and hence they are quashed.

4. It is the specific case of the petitioner that the respondents have not conducted any survey, demarcating any encroachment in the presence of the petitioner. This Court has time and again insisted the authorities concerned to follow a fair procedure when they initiate summary proceedings for evicting a person alleging encroachment. The petitioner in this case has



W.P(MD)No.17353 of 2023

claimed title to the property which is in her possession and enjoyment by putting up a house and compound wall. Therefore, while quashing the order impugned in the writ petition, this Court directs the 4th respondent to initiate further action, if necessary, for removal of encroachment under the provisions of the Tamilnadu Land Encroachment Act, 1905. Before proceeding further, the 4th respondent shall conduct a survey after giving notice to the petitioner and in his presence. The 4th respondent shall furnish a copy of report drawn by him after the said survey to the petitioner.

5. Though the counsel for the petitioner relied upon the plaint in O.S.No.199 of 2021 filed by her for injunction restraining the official respondents herein from interfering with her possession or evicting her otherwise than by due process of law, and submitted that the respondents may be restrained from taking any action during the pendency of the suit, having regard to the nature of the relief prayed for by the petitioner, the petitioner cannot now requests this Court to pass any prohibitory order injuncting the official respondents from taking any action in accordance with law during the pendency of the suit. Therefore, the request with reference to the pendency of the suit cannot be accepted.



W.P(MD)No.17353 of 2023

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6. With the above direction, the Writ Petition is allowed. No costs. Connected miscellaneous petitions are closed.

[S.S.S.R, J.] [D.B.C., J.]
18.07.2023

Index : Yes / No
Neutral Citation : Yes / No
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W.P(MD)No.17353 of 2023

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W.P(MD)No.17353 of 2023

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