



**W.P(MD)No.11721 of 2015**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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DATED : 18.08.2023

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.11721 of 2015  
and  
M.P.(MD)No.1 of 2015

M.Vijaya

... Petitioner

Vs.

- 1.The State of Tamilnadu,  
Rep by its Principal Secretary,  
Department of Municipalities and Local Administration,  
Fort St. George, Chennai 600 009.
- 2.The Deputy General of Police,  
Mylapore, Chennai.
- 3.The District Collector,  
Sivagangai District,  
Sivagangai.
- 4.The Superintendent of Police,  
Sivagangai District.
- 5.The Revenue Divisional Officer,  
Manamadurai Taluk,  
Sivagangai District.



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6.The Inspector of Police,  
Manamadurai Police Station,  
Sivagangai District.

7.The President,  
The Special Grade Panchayat,  
Manamadurai,  
Sivagangai District.

... Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to restore the petitioner's house in respect of the S.No.431/3, Ananthavalliamman Kovil Street, North car Street, Manamadurai Village, Sivagangai District prior to the eviction and illegal demolition and consequently direct the respondent No.1 to provide a compensation of Rs.10,00,000/- for forcible eviction of the petitioner without following the legal requirements as prescribed under section 6 and 7 of the Tamilnadu Land Encroachment Act, 1905.

For Petitioner : Mr.S.Lakshmikanth

For Respondents : Mr.D.Gandhiraj,  
Spl. Government Pleader for R1 to R3.  
Mr.Albert James,  
Government Advocate for R4 to R6.  
Mr.A.Kathiravan for R7.



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**ORDER**

Heard the learned counsel on either side.

2.The petitioner was residing in S.No.431/3, Ananthavalliamman Kovil Street, North Car Street, Manamadurai. On 19.06.2013, her house was demolished. The petitioner seeks compensation for such illegal demolition and forcible eviction.

3.It is beyond dispute that the demolition was carried out in the presence of the jurisdictional police. I, therefore, directed the Superintendent of Police, Sivagangai to file counter affidavit naming the persons at whose instance the demolition was carried out. In response to the direction given by this Court, the Superintendent of Police, Sivagangai filed counter affidavit. Paragraph Nos.3, 4 and 5 of the counter affidavit filed by the fourth respondent read as follows:-

*3.I humbly submit that the crux of the case is that:  
the petitioner and many other persons had also*



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*encroached in the land in S.No.431/3 by constructing houses. They were evicted by the Manamadurai Selection Grade Town panchayat official along with Assistant Divisional Engineer (H) on 19.06.2013 and the unauthorized constructions demolished by the above said authorities.*

*4.I humbly submit that, during the course of hearing on 25.07.2023, this Hon'ble Court had made the following order: "It is beyond dispute that the demolition was done under the aegis of the local police. The fourth respondent shall file an affidavit as to (i) who carried out the demolition and (ii) whose instance, Police protection was given."*

*5.I humbly submit that (i) demolition was carried out jointly by Manamadurai Selection Grade Town Panchayat officials along with Assistant Divisional Engineer (H), Manamadurai (ii) on the request of the Executive Officer, Manamadurai Special Grade Panchayat, vide his letter in ந.க.எண்.109/2015, நாள்: 17.06.2023 Police Protection was provided to thwart any law and order problems that may arise during the eviction of the encroachers."*



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4.While the police can be exonerated of their liability, the other respondents are bound to answer the fundamental question raised in the writ petition. Even if I assume for a moment that the petitioner is an encroacher and that she had put unauthorized construction, still she is entitled to notice. The authorities could not have high-handedly carried out the work of demolition. Admittedly, in this case, due process of law was not followed. I declare that the act of demolition was grossly illegal.

5.The learned counsel for the petitioner raises an even more important point. The Old S.No.1683 part of which has been classified as natham did not vest with the Government. However, the authorities appear to have atoned for their act by issuing patta in favour of the petitioner for two cents of land in S.No.431/3. Since patta has subsequently been given, taking note of the facts and circumstances, instead of awarding exemplary damages, I direct the first respondent to pay a sum of Rs.2,00,000/- to the petitioner within a period of ten weeks from the date of receipt of a copy of this order. If the said amount is not paid within the aforesaid period, it shall carry interest at the rate of 6% per annum from the date of filing of this writ petition.



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6.This writ petition is partly allowed. No costs. Consequently,

connected miscellaneous petition is closed.

**18.08.2023**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes/ No  
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To:-

- 1.The Principal Secretary,  
Department of Municipalities and Local Administration,  
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**G.R.SWAMINATHAN, J.**

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