



W.P.(MD)Nos.21234 & 21235 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2023

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P(MD)Nos.21234 & 21235 of 2023

and

W.M.P(MD)Nos.17632, 17634 & 17636 of 2023

W.P(MD)No.21234 of 2023

C.Thangavel

... Petitioner

Vs.

The Special Officer-cum-
Block Development Officer,
(Village Panchayats),
Kuppam Village Panchayat,
K.Paramathi Panchayat Union,
Karur District.

... Respondent

Prayer: Writ Petition filed under Article 226 of 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 respondent in his proceedings Na.Ka.Aa5/4220/2018 dated 11.08.2023 and served upon the petitioner on 21.08.2023 and quash the same as illegal, arbitrary and in violation of principles of natural justice.



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W.P(MD)No.21235 of 2023

C.Suseela

... Petitioner

Vs.

The Special Officer-cum-
Block Development Officer,
(Village Panchayats),
Kuppam Village Panchayat,
K.Paramathi Panchayat Union,
Karur District.

... Respondent

Prayer in both writ petitions: Writ Petitions filed under Article 226 of 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 respondent in his proceedings Na.Ka.Aa5/4220/2018 dated 11.08.2023 and served upon the petitioner on 21.08.2023 and quash the same as illegal, arbitrary and in violation of principles of natural justice.

For Petitioners :Mr.D.Kirubakaran
in both petitions

For Respondent :Mr.J.K.Jayaseelan
in both petitions Government Advocate



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COMMON ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

Mr.J.K.Jayaseelan, learned Government Advocate, takes notice for the respondent.

2. With the consent of both sides, these writ petitions are taken up for final hearing at the admission stage itself.

3. These writ petitions are filed for issuance of writ of certiorarified mandamus challenging the impugned orders passed by the Block Development Officer directing the petitioners to remove the encroachment within 7 days from the date of receipt of the notice dated 11.08.2023.

4. The learned counsel for the petitioners state that the impugned orders are issued by the Block Development Officer, who is not the competent authority to take action under Section 131 of the



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Tamilnadu Panchayats Act. He also relied upon the judgment of Division Bench of this Court, dated 12.03.2020 in W.P(MD)Nos.4779 and 4788 of 2020, wherein, this Court has held that the Block Development Officer is not the competent authority to initiate action in terms of Section 131(2) of Tamil Nadu Panchayats Act in the absence of any general or special order passed by the Government authorising him.

5. The learned Government Advocate is unable to produce the order of the Government in this regard.

6. In this circumstances, the impugned order is liable to be quashed on the short ground that the Block Development Officer is not the competent authority. However, it is stated in the impugned order that, the order is in continuation of survey conducted by the Tahsildar. The proceedings of the Tahsildar dated 07.04.2023 indicates that the survey was conducted by the Tahsildar and several encroachments in the public pathway are noted by the Tahsildar as indicated in his communication dated 02.01.2023.

7. The learned Government Advocate also produced the



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revenue records before this Court to show that the portion of the property in Survey No.1184/3 is shown as Government Poramboke. It is also indicated in Column-13 that the property has been registered as street. This Court, though find that the petitioners appear to be encroachers, is unable to sustain the orders issued by the Block Development Officer under Section 131 of Tamilnadu Panchayat Act. Hence, the impugned orders are quashed. However, liberty is given to the Tahsildar, Pugaloor to proceed under the Tamil Nadu Land Encroachments Act to remove the encroachment in accordance with law. If survey is not conducted in the presence of the petitioners, the Tahsildar, Pugaloor shall conduct the survey after issuing notice to the petitioners. After conducting the survey and inspection, if the petitioners are found to be in encroachment of any portion of the said road, it is open to the Tahsildar, Pugaloor to take appropriate action after giving opportunity to the petitioners to show cause and after considering the objection if any received from the petitioners, final orders can be passed. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.



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8. In the result, these writ petitions are allowed with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.] [D.B.C., J.]
30.08.2023

Index : Yes / No
NCC : Yes/No

am

To

1.The Special Officer-cum-
Block Development Officer,
(Village Panchayats),
Kuppam Village Panchayat,
K.Paramathi Panchayat Union,
Karur District.

2.The Tahsildar,
Pugaloor,
Karur District.



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S.S.SUNDAR, J.

and

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