

W.P.(MD) No.21740 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2023

CORAM:

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

**W.P.(MD) No.21740 of 2023
and
W.M.P.(MD) Nos.18138 & 18140 of 2023**

Manjula

... Petitioner

-VS-

1.The District Collector
Ramanathapuram District
Ramanathapuram

2.The Block Development Officer
Thiruvadanai Union
Ramanathapuram District

3.The Tahsildar
Thiruvadanai Taluk
Ramanathapuram District

4.The President
Andavoorani Panchayath
Thiruvadanai Taluk
Ramanathapuram District

5.Sebasthian

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the second respondent made in proceedings Na.Ka.No.A7/805/2022, dated 28.08.2023 and to quash the same and to direct the respondents to refrain from demolishing the building and evicting the petitioner without following the legal requirements of law.

For Petitioner : Mr.R.Manickam

For Respondents : Mr.J.Ashok
Addl. Government Pleader for R1, R3 & R4
Mr.T.Villavan Kothai
Additional Government Pleader for R2

ORDER

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

Mr.J.Ashok, learned Additional Government Pleader, takes notice for the respondents 1, 3 & 4 and Mr.T.Villavan Kothai, learned Additional Government Pleader, takes notice for the second respondent.

2. Since we are not passing any adverse orders, notice to the fifth respondent is dispensed with.

3. With the consent of both sides, this writ petition is taken up for final hearing at the admission stage itself.

4. This writ petition is filed challenging the order dated 28.08.2023, passed by the Block Development Officer / second respondent, under Section 131(2) of the Tamil Nadu Panchayats Act, 1994, directing the petitioner to remove encroachment made by her in Survey No.54 of Andavoorani Village, on her own, otherwise proceedings would be initiated for removal of encroachment.

5. This Court has already held that the Block Development Officer is not competent to initiate proceedings under Section 131 of the Tamil Nadu Panchayats Act, 1994.

6. Be that as it may, the petitioner has also brought to the notice of this Court that no survey was conducted before passing the impugned order.

7. Learned Additional Government Pleader appearing for the respondents 1, 3 & 4 produced before this Court a copy of the revenue record to show that a part of the property, which is allegedly encroached by the petitioner, is a water body.

8. In such circumstances, leaving it open to the Revenue Department to proceed with the removal of encroachment in accordance with the provisions of the Tamil Nadu Land Encroachment Act, 1905, this writ petition is disposed of. It is needless to say that the Revenue Officials before initiating proceedings under the provisions of the Tamil Nadu Land Encroachment Act, 1905, shall ensure that a proper survey is conducted in the presence of the petitioner and proceed further, if only encroachment is found. No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.]

[D.B.C., J.]

08.09.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The Block Development Officer,
Thiruvadanai Union,
Ramanathapuram District.
- 3.The Tahsildar,
Thiruvadanai Taluk,
Ramanathapuram District.
- 4.The President,
Andavoorani Panchayath,
Thiruvadanai Taluk,
Ramanathapuram District.

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