



W.P.(MD)No.22864 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.22864 of 2023

and

W.M.P.(MD)No.19111 of 2023

P.Savarimuthu

Vs.

... Petitioner

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Tahsildar,
Taluk Office,
Thiruvadanai Taluk,
Ramanathapuram District.

3.The Block Development Officer,
Thiruvadanai Taluk,
Ramanathapuram District.

4.The President,
Kattivayal Panchayat,
Thiruvadanai Taluk,
Ramanathapuram District.

5.S.Rajkumar

...Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the proceedings in Na.Ka.No.A7/805/2022, dated 28.08.2023 on the file of the Block Development Officer, Thiruvadanai and quash the same in respect of the subject land of the petitioner situated in Survey No.322/11 at Keelakurichi Village, Pullur Group, Thiruvadanai Taluk, Ramanathapuram District.

For Petitioner : Mr.Siva Thilakar

For R1 to R4 : Mr.T.Amjadkhan, Government Advocate

ORDER

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

The notice issued by the Block Development Officer, Thiruvadanai for removal of encroachments in proceedings dated 28.08.2023 is under challenge in the present Writ Petition.

2.The petitioner states that the lands classified as 'Natham' were in his possession and he is in enjoyment for more than 200 years. He has constructed a house in Survey Nos.322/13 and 322/14 and natham patta was granted in the name of his father. The petitioner states that Vaikal in Survey No.322/11 is in existence and the said area has not been encroached upon by the petitioner as alleged in the impugned notice.



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3. May that as it be, we are of the opinion that Section 131(2) of Tamil Nadu Panchayat Act, 1994 stipulates as follows:-

“131.Prohibition against obstructions in or over public roads, etc.-

(2) It shall be the duty of the Village Administrative Officer of every revenue village to report on encroachments on properties vested in Village Panchayats or Panchayat Union Councils to the Executive Authority or the Commissioner concerned and to the officer of the Revenue Department and [it shall be the duty of the Executive Authority or the Commissioner concerned either suo motto or on obtaining a report from the Village Administrative Officer in this regard to institute proceedings under this Act] secure the removal of the encroachments within such time as may be specified by the Government by general or special order. If the removal of the encroachments has not been secured within the period specified in such order, the officers of the Revenue Department shall institute proceedings under the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905) and secure such removal.”

4. In view of the said provision, the Tahsildar is competent to issue eviction notice under the Tamil Nadu Land Encroachment Act, 1905 and evict the encroachers by following the procedures as contemplated. The show cause notice



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is to be issued by the Revenue Tahsildar by conducting survey and thereafter, by affording an opportunity to the encroachers, the eviction proceedings are to be executed.

5.This being the procedures contemplated under the Tamil Nadu Panchayats Act, 1994, the notice issued by the 3rd respondent / Block Development Officer, Thiruvadanai, is without jurisdiction and therefore, we are inclined to direct the 2nd respondent / Tahsildar to issue a fresh notice under the Tamil Nadu Land Encroachment Act, 1905 and thereafter, evict the encroachers by conducting survey in the manner contemplated. The said action of the 2nd respondent / Tahsildar shall be monitored by the Divisional Monitoring Committee or the District Monitoring Committee as the case may be.

6.With these directions, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S., J.) & (V.L.N., J.)

13.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Yuva



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