



W.P.(MD)No.24229 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.24229 of 2023

and

W.M.P.(MD)No.20407 of 2023

Parvathi

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District.

2.The Revenue Divisional Officer,
Cheranmadevi, Tirunelveli.

3.The Tahsildar,
Radhapuram Taluk, Tirunelveli.

4.The District Land Surveyor,
Tirunelveli District.

5.The President,
South Karungulam Village Panchayat,
Valliyur Union,
Radhapuram Taluk, Tirunelveli District.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned



W.P.(MD)No.24229 of 2023

eviction / demolition order of the 5th respondent herein dated 17.08.2023 and quash the same and consequently, to direct the respondents herein to correct the resurvey taken in the year 1994 as per the original assignment and layout approved as per proceedings of the 2nd respondent in A4/5818/88, dated 28.03.1988.

For Petitioner : Mr.C.Christopher

For Respondents : Mr.T.Amjadkhan,

Government Advocate

ORDER

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

Exhausting appellate remedy is a paramount importance and admitting a Writ Petition before exhausting alternative remedy is an exception. Importance of an appeal remedy contemplated under the statutes at no circumstances do undermined, since factual findings of the original authority and appellate authority are of greater assistance to the High Court for the purpose of exercise of the powers of judicial review under Article 226 of Constitution of India. Thus, the Courts normally entertain Writ Petition only after exhausting alternative remedies contemplated under the Act. The very legislative intention to prescribe alternative remedy is to ensure and scrutinize the correctness of the decision taken by the original authority.



W.P.(MD)No.24229 of 2023

WEB COPY

2.This being the importance of the statutory remedy contemplated under the Act and the legislative intention, the Courts would not entertain the Writ Petition in a hurried manner, if the original orders are challenged without preferring an appeal contemplated under the Act. Admittedly, in the present case, the appeal remedy is contemplated under the provisions of the Tamil Nadu Land Encroachment Act, 1905 and thus, the petitioner is at liberty to exhaust the remedy and to prefer an appeal within a period of 15 days from today. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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

06.10.2023

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

Yuva



W.P.(MD)No.24229 of 2023

S.M.SUBRAMANIAM, J.

AND

V.LAKSHMINARAYANAN, J.

Yuva

To

- 1.The District Collector,
Tirunelveli District.
- 2.The Revenue Divisional Officer,
Cheranmadevi, Tirunelveli.
- 3.The Tahsildar,
Radhapuram Taluk, Tirunelveli.
- 4.The District Land Surveyor,
Tirunelveli District.
- 5.The President,
South Karungulam Village Panchayat,
Valliyur Union,
Radhapuram Taluk, Tirunelveli District.

W.P.(MD)No.24229 of 2023

06.10.2023