



W.P(MD)No.28426 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 07.12.2023

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**W.P(MD)No.28426 of 2023
and
W.M.P(MD)Nos.24473 & 24474 of 2023**

S.Rajeswari

... Petitioner

Vs.

- 1.The District Collector,
Pudukottai District,
Pudukkottai.
- 2.The Tahsildar,
Karambakudi Taluk Office,
Karambakudi,
Pudukkottai District.
- 3.The Executive Officer,
Selection Grade Town Panchayat,
Karambakudi,
Pudukkottai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned order in



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Na.Ka.No.299/2019 dated 02.11.2023 passed by the third respondent herein and quash the same.

For Petitioner : Mr.N.Jothivel

For Respondents : Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard both sides.

2.The petition mentioned water body belongs to the third respondent town Panchayat. The petitioner is alleged to have committed encroachment thereon. Hence impugned notice dated 02.11.2023 came to be passed. The impugned notice is peremptory in nature. Admittedly it was not preceded by any show cause notice. The sale deed standing in the name of the petitioner indicates the water body as its boundaries on two sides. That by itself may not be determinative of the matter. Whether the petitioner has encroached on the water body can be decided only if survey is conducted in his presence.

3.We therefore direct that the impugned notice dated 02.11.2023 shall be treated as show cause notice. The petitioner is given two weeks from the date of receipt of a copy of this order to offer her response.



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Thereafter, survey shall be conducted in the petitioner's presence. The rights of the petitioner will abide by the outcome the survey and order will be passed by the third respondent after taking into account the petitioner's response. The entire exercise shall be completed by the third respondent within a period of twelve weeks from the date of receipt of a copy of this order. We make it clear that we have not gone into the merits of the matter. All the defenses of the petitioner are left open.

4.This writ petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [B.P., J.]
07.12.2023

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

To

- 1.The District Collector,
Pudukottai District,
Pudukkottai.
- 2.The Tahsildar,
Karambakudi Taluk Office,
Karambakudi,
Pudukkottai District.



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and

B.PUGALENDHI, J.

MGA

3.The Executive Officer,
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