



W.P.(MD)No.30039 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 18.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.30039 of 2023

and

W.M.P.(MD)No.25924 of 2023

S.Jebakani

... Petitioner

Vs.

The Commissioner,

Nagercoil Corporation,

Nagercoil, Kanyakumari District.

...Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned notice No.2/2023-2024 (North Region) dated 27.11.2023 issued by the respondent and quash the same as illegal.

For Petitioner : Mr.D.Saravanan

ORDER

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

The notice dated 27.11.2023 issued under Section 128(1)(b) and 128(2)



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of Tamil Nadu Urban Local Bodies Act, 1998, is under challenge in the present Writ Petition.

2.The petitioner states that she has purchased the subject property more fully described in the Writ Petition through registered sale deed dated 18.03.2004 vide document No.538/2004. The subject property situates in an approved layout and the approval was granted by the Deputy Director of Town and Country Planning. She has constructed the compound wall and planted trees and she is in continuous possession of the subject property for about 19 years. The predecessors in title were in possession for more than 7 decades. Therefore, the notice issued by the respondent is infirm.

3.The authorities conducted survey and found that the petitioner has encroached upon the public pathway and planted some trees therein and thereby, caused obstructions to the public and therefore, the authorities have initiated action to remove the encroachments. If at all the petitioner claims any title over the subject property, she has to approach the competent civil Court of law for establishing her civil right independently based on the documents and evidences available on record. The authorities are empowered to conduct a survey, identify



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the encroachments and remove the same in the interest of the public by following the procedures as contemplated under the Act.

4.In the present case, survey has already been conducted and notice was issued and the petitioner has also submitted her objections to the notice. The said objections may be considered by the authorities and still the authorities are of the opinion that the lands are public place encroached upon by the petitioner, there is no impediment to remove such encroachments without any further delay. The said exercise is directed to be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

5.With the above directions, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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

18.12.2023

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

Yuva

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S.M.SUBRAMANIAM, J.

AND

L.VICTORIA GOWRI, J.

Yuva

To

- 1.The Secretary,
State of Tamil Nadu,
Highways Department, Vendasandur,
Dindigul District.
- 2.The Assistant Divisional Engineer,
State Highways Department, (B & M),
Vendasandur, Dindigul District.
- 3.The Tahsildar,
Vendasandur Taluk, Dindigul District.

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