



W.P(MD)No.31137 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2023

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
AND
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

W.P(MD)No.31137 of 2023

V.Pitchaimani

...Petitioner

.VS.

**1.The District Collector,
Tenkasi,
Tenkasi District.**

**2.The Tahsildar,
Tenkasi Taluk,
Tenkasi District.**

**3.The Block Development Officer (Village Panchayat),
Kadayam Panchayat Union,
Tenkasi District.**

**4.Perumpathu/Keezhakadayam Panchayat,
Represented by its President,
Perumpathu,
Tenkasi Taluk,
Tenkasi District.**

**5.The Inspector of Police,
Kadayam Police Station,
Tenkasi District.**

6.Mr.Ponnusamy

...Respondents



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PRAYER: Writ Petition filed under Article 266 of the Constitution of India, Writ of Mandamus, directing the respondents 1 to 5 to remove the encroachment made by the 6th respondent in Survey No.432/1A4 in Kadayam Perumpathu Part 2 Village, Tenkasi Taluk, Tenkasi District.

For Petitioner	:Mr.R.J.Karthick
For R1, R2 & R5	:Mr.T.Amzad Khan Government Advocate
For R3 & R4	:Mr.S.Kameswaran Government Advocate

ORDER

[Order of the Court was made by **RMT.TEEKAA RAMAN.,J.**]

The writ petition is filed for Writ of Mandamus, directing the respondents 1 to 5 to remove the encroachment made by the 6th respondent in Survey No.432/1A4 in Kadayam Perumpathu Part 2 Village, Tenkasi Taluk, Tenkasi District.

2. After hearing the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents 1 to 3, we find that the relief sought for by the petitioner is duly covered



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under the order of this Court in W.P(MD)No.24679 of 2023, dated 12.10.2023, wherein, the Brother Judges of this Court has held as follows:-

“5.Writ petitions filed challenging the show cause notices are not entertainable, unless such show cause notices have been issued by an incompetent authority having no jurisdiction or tainted with the allegation of *mala fides*. Persons, receiving show cause notices regarding removal of encroachments, are at liberty to submit their objections / explanations along with the documents, if any, enabling the competent authority to decide the issues on merits and in accordance with law and proceed thereafter.

6.If any person is aggrieved by the final order passed under the relevant statute, he may prefer an appeal before Appellate Authority under the Act. The appeal remedy contemplated under the enactment, at no circumstances, be undermined. Such appeal remedy is contemplated by the legislators in order to verify the correctness of the orders passed by the original authority. Thus, the Rule is to exhaust the alternate appeal remedy before approaching the Court of law and dispensing with the appeal remedy / statutory remedy is an exception. By entertaining Writ Petitions before exhausting the alternative



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appeal remedy / statutory remedy, the right of appeal of the aggrieved person is denied, more so, the rights of the other parties is also prejudiced. Thus, the importance of exhausting the alternative appeal remedy, at no circumstances, be neutralized or compromised. Even in respect of the grounds relating to violation of principles of natural justice, the statutory authorities are empowered to adjudicate such legal grounds, since they are exercising quasi-judicial powers under the Act. Thus, on receipt of the show cause notice under the relevant Act relating to removal of encroachments in Government lands and water bodies, the person, who has received the same, must be relegated to approach the authority concerned and submit his explanation / defence along with the documents, if any.

7. Earth provides everything for human life, but not to satisfy the greed. Greedy men are encroaching upon the Government lands, water bodies and Highways lands, thereby causing infringement of the basic rights of other fellow citizens, who are all entitled to use public lands. In such circumstances, it is the constitutional duty of the State to ensure that public properties, water bodies and Government Poramboke lands are protected for the benefit of people at large and to provide infrastructural facilities to the public in general. In the event of large scale encroachments, it will result in an anomalous situation,



wherein the greedy men will take undue advantage and by creating bogus and fraudulent documents, claim title over the Government properties and secure patta.

8.Few greedy revenue authorities are granting patta by indulging in corrupt practices and such pattas are utilized for the purpose of claiming title over the Government properties. Through Schematic and systematic way of fraudulent documents are created by the encroachers for the purpose of grabbing larger extent of Government lands across the State of Tamil Nadu. Due to sky rocketing of the market value of the lands in recent years, greedy men are tempted to encroach upon the Government lands with the collusion of the officials of the revenue and other Government departments. The officials from the revenue departments, who have knowledge about the Government lands are paving way for encroachments and by connivance granting patta to such encroachers by manipulating revenue records. All such activities are to be thwarted and the Government properties are to be protected for the benefit of the people at large and it is the duty mandated on the State.

9.The Committees constituted in G.O.(Ms).No.64, have to conduct roving enquiry for the purpose of identifying encroachments in their respective divisions, districts and at the state level and initiate all appropriate



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actions to evict the encroachers and protect the Government lands, water bodies etc.

10. Grabbing Government land is an offence. Criminal prosecutions are to be initiated against the encroachers. Frequent Writ Petitions are filed and in some cases, even after the removal of encroachments, again same public properties are encroached upon by the persons and such re-encroachment, if permitted, would result in further complications. Therefore, once the encroachment is identified by conducting survey and show cause notice has been issued to the encroachers, asking them to vacate the land or premises, final order to be passed, which is to be executed without causing undue delay. In addition, the authorities competent are bound to institute criminal prosecution against the offenders. Grabbing Government land is a theft. Therefore, it is an offence not only under Indian Penal Code but under other statutes. Serious actions warranted against the encroachment of Government land, water bodies etc. Common citizen are suffering on account of the illegal activities of the land grabbing by few influential persons in the society.”

3. Accordingly, the State Steering Committee shall be constituted for the purpose of enabling them to protect the Government lands, water



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bodies, Government properties etc., and to initiate prompt actions for eviction of encroachers from the Government properties, lands, water bodies, etc.

4. The petitioner, depending upon the actual finding, it is open to the official respondents to take action as indicated in the above stated order. In view of the order passed, notice to the fifth respondent is dispensed with.

5. Accordingly, this writ petition is disposed of. No costs.

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

[T.K.R.,J.] [P.B.B.,J.]
22.12.2023



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