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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No.1802 of 2024

T.Mani : Petitioner

versus

1.The District Collector,
Chengalpattu 603001

2.The Revenue Divisional Officer,
Tambaram, Chengalpattu 600045

3.The Tahsildar,
Tambaram, Chengalpattu 600045

4.The Block Development Officer, (Village Panchayat)
St.Thomas Mount, Panchayat Union,
Chitlapakkam, Chennai 64

5.The village President,
Nanmangalam Village Panchayat,
Nanmangalam, Chennai 600129 : Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records relating to the impugned order passed by the 4th respondent in his proceedings in Na.Ka.No.1002/2023/A1 dated 18.01.2024 and to quash the impugned order.

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For the Petitioner : Mr.A.Tamilarasan,
for Mr.J.Prakasam

For the Respondents : Mr.K.Karthik Jagannath,
Government Advocate

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.A.Tamilarasan, learned counsel for the petitioner and Mr.K.Karthik Jagannath, learned Government Advocate, appearing for the respondents.

2. The petitioner is challenging the notice issued under Rule 131(a) of the Tamil Nadu Panchayats Act, 1994.

3. The learned counsel for the petitioner submits that the petitioner is the owner of the property for which notice has been issued. The petitioner is not an encroacher. The Block Development Officer, who has issued the impugned notice, does not have the authority to issue such notice and direct removal of encroachment. Reliance is placed on the judgment of the Division Bench of this court in *WP Nos.4778 and 4788 of 2020 (Nagarj vs. District Collector, Dindigul) dated 12.03.2020.*

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4. The petitioner claims to be the owner of the property on the basis of the sale deed dated 09.02.2007. The said sale deed is in respect of S.No.272/2, Plot No.1B; whereas notice issued under rule 131(a) of the Tamil Nadu Panchayat Acts, 1994 is in respect of the land bearing S.No.318/12(M). Encroachment has been alleged in the said survey number as per the boundaries mentioned therein.

5. There is no document to substantiate that the property owned by the petitioner at S.No.272/2 is the same as S.No.318/12(M), for which the impugned notice is issued.

6. Another contention advanced on behalf of the petitioner is that the Block Development Officer does not have the power to issue notice under Section 131(a) of the Tamil Nadu Panchayats Act. The same may not stand to reason as the Block Development Officer would be the executive officer.

7. Be that as it may, notice itself states that if the encroachment is not removed, then, action will be taken to remove the encroachment as per the Tamil Nadu Land Encroachment Act, 1905. The Act of 1905

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provides for a procedure i.e. issuance of notice under Section 7, calling for explanation from the alleged encroacher, and thereafter, passing order under Section 6 of the said Act. As the notice itself states that encroachment would be removed as per the Tamil Nadu Land Encroachment Act, naturally, the authorities are bound to follow the procedure stated therein.

8. The writ petition stands disposed of. There shall be no order as to costs. Consequently, WMP Nos.1864 and 1865 of 2024 are closed.

(S.V.G., CJ.) (D.B.C., J.)
24.01.2024

Index : Yes/No
Neutral Citation : Yes/No
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