



WP No.4027 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2024

CORAM

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No.4027 of 2023

R.Manohar : Petitioner

versus

1.Executive Officer/President Kottametupatti Panchayat
Kottametupatti Village,
Mettupatti Post, Omalur Taluk,
Salem District 636 455

2.The Block Development Officer,
Omalar Union Office,
Omalar Post, Salem District 636 455

3.The Tahsildar,
Omalar Taluk Office, Omalar Post
Salem District 636 455

: Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records on the file of the first respondent in Na.Ka.No.01/Kottamedupatti Panchayat dated 31.01.2023 and quash the proceedings as illegal, incompetent and unconstitutional.

For Petitioner : Ms.Abhirame,
for Ms.V.Srimathi

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



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ORDER

(Made by the Hon'ble Chief Justice)

We have heard Ms.Abhirame, learned counsel for the petitioner and Mr.K.Karthik Jagannath, learned Government Advocate for the respondents.

2. The petitioner challenges the notice under Section 131 of the Tamil Nadu Panchayats Act.

3. The contention of the learned counsel for the petitioner is that the land in question is assigned to the father of the petitioner and that the petitioner is not an encroacher. The impugned notice is issued on the premise that the subject land is a *Tharisu* land and the petitioner is an encroacher.

4. On the last date, i.e. on 13.02.2023, we had recorded the statement of the learned State Government Pleader as under:

“Mr.P.Muthukumar, learned State Government Pleader, takes notice for the respondents. He submits that the impugned



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notice has been issued only on the basis of the statement made by learned Government Advocate before the Court in WP No.9038 of 2019 that the encroachment will be removed, without taking note of the fact that the land in question in S.No.114/1 has been assigned to the father of the petitioner on 27.07.1987 and seeks a week's time to file counter."

5. It would appear that the impugned notice is issued pursuant to the order passed in WP No.9038 of 2019. The present petitioner was not a party in the said writ petition.

6. The impugned notice is issued only under the Tamil Nadu Panchayats Act. The petitioner can file a reply to the same, along with documents in his favour. The notice is issued by Block Development Officer and he has no power to evict. The respondents will have to take recourse to the Tamil Nadu Land Encroachment Act, 1905 wherein provisions of Sections 7 and 6 of the said Act will have to be followed. Once a notice is issued under Section 7 of the Act, the



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petitioner can file his reply to the said notice, supported by documents in his favour. Naturally, the respondent authorities will be required to consider the stand of the petitioner, the documents and/or assignment of the land if any, before taking any further decision.

7. With this observation, the writ petition is disposed of. There shall be no order as to costs. Consequently, WMP No.4068 of 2023 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

04.03.2024

Index : Yes/No
Neutral Citation : Yes/No
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To

WEB COPY

- 1.The Tahsildar,
Omalur Taluk Office,
Omalur Post
Salem District 636 455
- 2.The Block Development Officer,
Omalur Union Office,
Omalur Post, Salem District 636 455



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THE HON'BLE CHIEF JUSTICE
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D.BHARATHA CHAKRAVARTHY, J.

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