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W.P.No.26408 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P. No.26408 of 2019

Ramathal

... Petitioner

Vs.

1.The District Collector,
Tiruppur District,
Tiruppur.

2.The Tahsildar,
Avinashi Taluk,
Avinashi,
Tiruppur District.

3.The Revenue Inspector,
Avinashi West,
Avinashi,
Tiruppur District.

4.Poovathal
(R-4 impleaded *vide* order dated 22.02.2024
made in W.M.P.No.705 of 2020 in W.P.No.
26408 of 2019 by SMSJ and KRSJ)

... Respondents



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Prayer: Writ Petition is filed under Article 226 of Constitution of India, for issuance of writ of mandamus, forbearing the respondents herein from dispossessing the petitioner from her house and building situate in Old Grama Natham S.F.No.187, New Grama Natham S.F.No.439, 440 situate at Sembianallur Village, Avinashi Taluk, Tiruppur District.

For Petitioner	: Mr.K.Govi Ganesan
For R1 to R3	: Mr.A.Selvendran Special Government Pleader
For R4	: Mr.K.Myilsamy

ORDER

(Order of the Court delivered by S.M.SUBRAMANIAM,J.)

The writ on hand has been instituted to forbear the respondents from dispossessing the petitioner from her house and building situated in Old Grama Natham S.F.No.187, New Grama Natham S.F.No.439, 440 situated at Sembianallur Village, Avinashi Taluk, Tiruppur District.

2. The petitioner states that she is the owner of the subject land measuring to an extent of 960 square feet in Old Grama Natham S.F.No.187 situated at Sembianallur Village, Avinashi Taluk, Tiruppur District. The petitioner purchased the land for a valid consideration. The Authorities have



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identified the subject property as 'Grama Natham'. Therefore, action was initiated to evict the writ petitioner. Since action was initiated, the petitioner has chosen to file the present writ petition.

3. In the event of claiming title over the subject property, the petitioner has to approach the Competent Civil Court of law. However, the Authorities Competent are empowered to invoke the provisions of the Act for the purpose of removal of encroachments.

4. Mr.A.Selvendran, learned Special Government Pleader would submit that the President of the Village Panchayat has been notified as an Executive Authority under Section 83 of the Tamil Nadu Panchayats Act, 1994 in G.O.(Ms)No.225 Rural Development (C.I) Department dated 15.10.1996. Thus, the President Village Panchayat is empowered to evict the encroachers by exercising his powers under the Panchayats Act. In this context, he would further refer Section 222 of the Panchayat Act, which provides power to enforce notices, orders, etc.,



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5. However, we find that Section 222 cannot be invoked by an Executive Officer/President Panchayat Union for the purpose of eviction of encroachers in the Village. Under Section 130 of the Panchayat Act, the Panchayat Union shall maintain public road for the benefit of the people of that locality. The public road is vested in the Panchayat Union and the Executive Authority is duty bound to maintain the same under the provisions of the Act for public good and free from encroachments.

5.1 We find that there is no provision conferring powers to the President, Village Panchayat to evict the encroachers from the properties vest in the Panchayat Union. However, the President Pranchayat is empowered to issue notice to the encroachers by exercising his powers as an Executive Authority as notified by the Government under G.O.(Ms).No.225 Rural Development (C.I) Department dated 15.10.1996 under Section 83 of the Tamil Nadu Panchayats Act, 1994. On receipt of any such notice from the Prsident Village Panchayat, if the encroachers failed to handover the properties to the Village Panchayat, then the President Panchayat or the Block Development Officer as the case may be shall submit a report to the jurisdictional Tahsildar for eviction of encroachers from the public property.



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The jurisdictional Tahsildar is the Competent Authority under the Tamil Nadu Encroachments Act, 1905 for eviction of encroachers by following the procedures. The jurisdictional Tahsildar shall issue notice under Section 7 and by affording opportunity to the encroachers pass an order under Section 6 of the Land Encroachments Act. Aggrieved person may prefer an appeal under Section 10 of the Act, before the District Collector.

5.2. That being the procedures contemplated, the President Village Panchayat or the Block Development Officer have no powers to directly evict the encroachers either under the Tamil Nadu Panchayat Act or under the Land Encroachment Act. They are empowered to issue notice to the encroachers and if encroachers failed to vacate then a report is to be submitted to the jurisdictional Tahsildar to evict the encroachers by invoking the provisions of the Tamil Nadu Land Encroachment Act, 1905. Thus, the Authorities Competent are directed to scrupulously follow the procedures for the purpose of evicting the encroachers from the public property, water bodies etc.,

5.3. As far as the relief sought for in the present writ petition is



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concerned, such relief in the nature of injunction cannot be granted by the High Court, if at all the petitioner claims title, then he has to approach the competent Civil Court of law.

5.4 Learned Counsel for the 4th respondent would submit that a Civil Suit was instituted in O.S.No.215 of 2012 to evict the encroachers. The Suit was decreed on 09.04.2014. E.P.No.04 of 2015 was instituted. In spite of the Judgment and Decree of the Civil Court, the Authorities have not initiated action to evict the encroachers. Thus, we are inclined to direct the respondents 1 to 3 to initiate immediate action to remove the encroachments and utilize the property for public purposes in the manner contemplated. The said exercise is directed to be completed within a period of twelve weeks from the date of receipt of a copy of this order.

6. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs.



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[S.M.S.J.] [K.R.S.J.]
22.02.2024

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

1.The District Collector,
Kanjipuram District,
Kanjipuram – 634 917.

2.The Thasildhar,
Tambaram Taluk,
Kanjipuram – 600 063.

3.Junior Engineer,
W.R.D.,
Irrigation Section,
Padappai,
Kanjipuram – 631 050.

S.M.SUBRAMANIAM,J.
AND
K.RAJASEKAR,J.



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Order in
W.P.No.26480 of 2019

22.02.2024