



WEB COPY



W.P.No.24

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2024

CORAM:

THE HON'BLE MR.D.KRISHNAKUMAR
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.P.No.24919 of 2024 and
W.M.P.Nos.27265 & 27267 of 2024

Santha

... Petitioner

-VS-

1. The Secretary to Government,
Revenue Department,
Fort St.George, Chennai-600 009.
2. The Secretary to Government,
Law Department,
Fort St.George, Chennai-600 009.
3. The District Collector,
Salem, Salem District.
4. The Tahsildar,
Kadayampatti,
Kadayampatti Taluk,
Salem District.
5. The Revenue Inspector,
Taluk Office,
Kadayampatti Taluk,
Salem District.
6. The Block Development Officer,



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Kadayampatti Block,
Kadayampatti Taluk,
Salem District.

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7. The Village President,
K.Morur Village,
Kadayampatti Taluk,
Salem District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to proceeding Nil under Section 7 Notice dated 13.08.2024 passed by the 5th respondent, quash the same and consequently direct the respondents 1 and 2 to frame a Rule under Section 8(c)(d)(e)(f) & (g) of the Land Encroachment Act, 1905 for declaring the land in S.No.191/2 to an extent of 1.40 acres at Kanavai Puthur Village, Kadayampatti Taluk as unobjectionable land by considering the petitioner's representation dated 19.08.2024.

For Petitioner : Mr.V.P.K.Gowtham

For Respondents : Mr.K.Karthik Jagannath
Govt. Advocate

ORDER

(By the Hon'ble Acting Chief Justice)

This Writ Petition has been filed, challenging the proceeding issued under Section 7 Notice dated 13.08.2024 passed by the 5th respondent, a show cause notice under Section 7 of the Land Encroachment Act, 1905 (Act, 1905) was issued asking the petitioner as to why she should not be evicted from the land.



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2. Mr.K.Karthik Jagannath, learned Government Advocate takes notice for the respondents. By consent of the parties, the Writ Petition itself is taken up for final disposal at the stage of admission.

3. It is the case of the petitioner that he is in possession and enjoyment of the land in S.No.191/2 for the past 35 years, cultivating various crops and without issuing any declaration under Section 8(C) of the Act, 1905, attempt was made by the respondents to remove the encroachment and notice was issued to the petitioner for evicting her from the said land.

4. Learned Government Advocate appearing for the respondents contended that the Writ Petition is not maintainable, as it has been filed at the premature stage. The petitioner has made an objection to the Notice issued by the 5th respondent and the same will be considered and suitable orders will be passed thereon.

5. In view of the submission made by the learned Government Advocate, we direct the Tahsildar / R4 herein to consider the reply dated 19.08.2024 given by the petitioner to the show cause notice, on its own merits and pass appropriate orders thereon in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that after considering the reply/objection of the



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petitioner, if the 3rd respondent comes to the conclusion that there is an encroachment, it is open to the 3rd respondent to proceed further in accordance with law.

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6. With the above observation and direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K.,ACJ.]

[P.B.B,J.]

28.08.2024

Index: Yes / No

Internet: Yes / No

Speaking Order/Non Speaking Order
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To:

1. The Secretary to Government,
Revenue Department,
Fort St.George, Chennai-600 009.
2. The Secretary to Government,
Law Department,
Fort St.George, Chennai-600 009.
3. The District Collector,
Salem, Salem District.
4. The Tahsildar,
Kadayampatti,
Kadayampatti Taluk,
Salem District.



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5. The Revenue Inspector,
Taluk Office,
Kadayampatti Taluk,
Salem District.
6. The Block Development Officer,
Kadayampatti Block,
Kadayampatti Taluk,
Salem District.
7. The Village President,
K.Morur Village,
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HON'BLE ACTING CHIEF JUSTICE,
AND
P.B.BALAJI,J.,
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