



W.P(MD)No.1302 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 23.01.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

W.P(MD)No.1302 of 2024
and
W.M.P.(MD)No.1340 of 2024

D.Loganathan

... Petitioner

Vs.

1.The Block Development Officer,
Periyakulam.

2.The Tahsildar,
Tahsildar Office,
Periyakulam.

3.The Executive Officer / Panchayat President,
Kullapuram Panchayat,
Periyakulam Panchayat Union,
Theni.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned notice dated 26.12.2023 on the file of 3rd Respondent and quash the same.



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For Petitioner : Mr.S.A.Ajmalkhan

For Respondents : Mr.V.Nirmal Kumar,
Government Advocate for R1.
Mr.G.Sivaraja,
Government Advocate for R2 & R3.

ORDER

Heard both sides.

2.The petitioner challenges the impugned communication issued by the president of the local body. We have been consistently holding that the president of the local body can very well issue notice under Section 131 of the Tamil Nadu Panchayats Act, 1994 calling upon an encroacher to remove the encroachment. But then, the president cannot himself or herself physically cause removal of the encroachment. That can be done only by the revenue authority. The revenue authority in turn has to follow the procedure set out in Tamil Nadu Land Encroachment Act, 1905. That means that notice under Section 7 of the Act has to be issued before passing final order under Section 6 of the Act. The



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petitioner can very well place all his contentions, objections and defences
in response to Section 7 notice.

3. Leaving open all the defences of the petitioner and with the
aforesaid clarification, this writ petition is disposed of. No costs.
Consequently, connected miscellaneous petition is closed.

(G.R.S.J.) & (B.P.J.)
23.01.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

To:-

1. The Block Development Officer,
Periyakulam.
2. The Tahsildar,
Tahsildar Office,
Periyakulam.
3. The Executive Officer / Panchayat President,
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and
B.PUGALENDHI, J.**

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