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W.P.(MD) No.2686 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD) No.2686 of 2024
and
W.M.P.(MD) No.2701 of 2024**

S.Chithra

... Petitioner

-VS-

- 1.The Tahsildar
Palani Taluk Office
Dindigul District
- 2.The Executive Officer /
Joint Commissioner
Hindu Religious and
Charitable Endowments Department
Arulmighu Dhandayuthapani Thirukovil
Palani Town and Taluk
Dindigul District
- 3.The Commissioner
Palani Municipality
Palani Town and Taluk
Dindigul District

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records of the impugned order passed by the first respondent in his proceedings in Na.Ka.No.9317/2017/C2, dated 31.01.2024 and quash the same as illegal and without jurisdiction.

For Petitioner : Mr.B.Saravanan, Senior Counsel
assisted by Mr.D.Kirubakaran

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.S.P.Maharajan
Special Government Pleader for R1
Mr.R.Baraneedharan
for Mr.R.Murali for R2
Mr.L.P.Maurya for R3

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Mr.S.P.Maharajan, learned Special Government Pleader, takes notice for the first respondent, Mr.R.Murali, learned counsel, takes notice for the second respondent and Mr.L.P.Maurya, learned counsel, takes notice for the third respondent.



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2. With the consent of both sides, the writ petition is taken up for final hearing at the admission stage itself.

3. The notice, dated 31.01.2024, issued by the first respondent, directing the petitioner to remove the encroachments made by her in Survey No.877/2A, Block No.20, Ward No.3, Palani Town, is under challenge in the present writ petition.

4. Learned Senior Counsel appearing for the petitioner would submit that the property in question is Survey No.877/2A. Whereas, the petitioner is running a chips shop in Survey No.864.

5. Learned Senior Counsel would further submit that the property in question is also 864 and not 877/2A and hence, the said property is a private patta land and the same is not belonging to the Revenue Department and therefore, the Revenue Department has no right for removal of encroachments in the said property.



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6. Learned Additional Advocate General appearing for the first respondent strongly objected the above contentions of the learned Senior Counsel by stating that the property in question in 877/2A is a poramboke land and it is classified as “Temple Poramboke” in the revenue records and therefore, the Revenue Authority is the competent authority to remove the encroachments in the said survey number.

7. Learned Additional Advocate General would further submit that the Revenue Tahsildar has conducted a survey in the entire property in Survey No.877/2A with the assistance of the Taluk Surveyor and has found that there is an encroachment made by the petitioner by running a chips shop, which is to be removed.

8. Learned counsel appearing for the second respondent / Devasthanam has categorically stated that in the property in question, the petitioner has no right to make any claim.

9. Heard the learned counsel on either side and perused the materials available on record.



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10. The respondents have placed materials before this Court to show that the property in question i.e.877/2A is a temple poramboke land. The same has not been disputed by the petitioner. According to the petitioner, she is running a shop in Survey No.868 and she has not made any encroachment in Survey No.877/2A and if a proper survey is conducted, it would be clear that she has not made any encroachment in Survey No. 877/2A. The respondents have conducted a survey in the property in question and served the impugned notice to the petitioner for removal of encroachments. According to the learned Additional Advocate General, based on the survey report necessary action will be taken for removal of encroachment in the subject property.

11. Considering the above facts and circumstances of the case, we are of the view that the land in Survey No.877/2A is a temple poramboke land and therefore, the petitioner cannot have any right over the same. In such circumstances, we direct the revenue officials concerned to conduct a proper survey in Survey No.877/2A in the presence of the petitioner, with the assistance of the Taluk Surveyor concerned, on 08.02.2024 at 09.00 a.m., and



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find out whether there is any encroachment in Survey No.877/2A or not. If any encroachment is found in Survey No.877/2A, then necessary action is to be taken by the respondents for removal of those encroachments, in accordance with law, immediately.

12. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.]

[R.V., J.]

07.02.2024

(2/3)

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

Note to Office:

Upload in the Website today.

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To:

The Tahsildar,
Palani Taluk Office,
Dindigul District.



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D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

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and
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