



W.P.(MD) No.3211 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2024

CORAM:

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

**W.P.(MD) No.3211 of 2024
and W.M.P.(MD) No.3173 of 2024**

Arunachaladevi

... Petitioner

-VS-

- 1.The District Collector,
Tenkasi District,
Tenkasi.
- 2.The District Revenue Officer,
Tenkasi District,
Tenkasi.
- 3.The Revenue Divisional Officer,
Sankarankovil Revenue Division,
Sankarankovil,
Tenkasi District.
- 4.The Tahsildar,
Sankarankovil Taluk,
Sankarankovil,
Tenkasi District.



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5.The Block Development Officer (Village),
Sankarankovil Panchayat Union,
Sankarankovil,
Tenkasi District.

6.The President,
Ramanathapuram Panchayat Union,
Sankarankovil,
Tenkasi District.

7.A.Guruswamy

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records, pertaining to the impugned order in the proceedings of the 4th respondent, dated 08.12.2023, and quash the same as not valid, and thereby directing the 2nd respondent to pass appropriate orders, by making a detailed enquiry contemplated under the appropriate Acts and Revenue Standing Orders.

For Petitioner : Mr.F.X.Eugene

For Respondents : Mr.S.P.Maharajan,
Special Government Pleader for R1 to R4

Mr.N.Satheeshkumar
Additional Government Pleader for R5



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ORDER

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

This Writ Petition has been filed challenging the proceedings of the 4th respondent, dated 08.12.2023, and to direct the 2nd respondent to pass appropriate orders, by making a detailed enquiry contemplated under the appropriate Acts and Revenue Standing Orders.

2. By consent of both sides, the Writ Petition is taken up for final hearing at the time of admission itself. Considering the nature of the order proposed to be passed in this Writ Petition, protecting the interests of the respondents 6 and 7 also, notice to the respondents 6 and 7 is dispensed with.

3. According to the petitioner, the fourth respondent has issued notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 and again issued the impugned notice under Section 6 of the Act. Further, according to the petitioner, the property in question i.e., S.No.1195/24, Ramanathapuram Village, Sankarankovil Taluk, Tenkasi District, has been classified as “Nadai Pathai” and that the same forms part and parcel of the house of the petitioner,



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existing from the year 2012 and in the year 2020, he renovated the front portion with a gate and plastering. In the eastern side of the house, there is a lane belonging to the petitioner. The 7th respondent neighbour, who is on the eastern side of the petitioner's house and wanted to grab the eastern side lane of the petitioner, instead of claiming the civil rights made a claim that the petitioner has encroached the lane.

4. We have considered the submissions made on both sides and perused the materials produced before this Court.

5. The petitioner has challenged the impugned notice under Article 226 of the Constitution of India, when there is an efficacious alternative remedy under Section 10 of the Tamil Nadu Land Encroachment Act, 1905 to file an appeal and without exhausting the said remedy, the petitioner has filed this Writ Petition.

6. In view of the above, the Writ Petition is disposed of with liberty to the petitioner to prefer an appeal under Section 10 of the Tamil Nadu Land



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Encroachment Act, 1905, within a period of two weeks from the date of receipt of a copy of this order. Till such time, the respondent is directed not to take any coercive steps to evict the petitioner. Registry is directed to return the original notice to the petitioner, after replacing the same with a xerox copy. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

[D.K.K., J.] [R.V., J.]
14.02.2024

Index : Yes / No
Internet : Yes / No
SJ

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