



W.P(MD)No.3386 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.02.2024

CORAM

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

W.P(MD)No.3386 of 2024
and
W.M.P.(MD)No.3354 of 2024

S.Kaliyammal

... Petitioner

Vs.

1.The Tahsildar,
Thiruppathur,
Sivagangai District.

2.The Block Development Officer,
Kallal Panchayat Union,
Sivagangai District.

3.The President,
N.Keelaiyur Panchayat,
Sivagangai District.

4.Manickam

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to



W.P(MD)No.3386 of 2024

call for the records and proceedings relating to the impugned notice dated 01.02.2024 issued by the 3rd respondent with regard to the property comprised in Survey Number 25/3 in Mela Avinthipatti Village, N.Keelaiyur Panchayat, Thiruppathur Taluk, Sivagangai District and quashing the same as illegal and consequently to direct the 3rd respondent not to harass the petitioner by way of misuse his official capacity and this Court.

For Petitioner : Mr.P.Aju Tagore

For Respondents : Mr.K.Balasubramani,
Spl. Government Pleader for R1.
Mr.M.Ramesh,
Government Advocate for R2 & R3.

ORDER

Heard the learned counsel for the writ petitioner, the learned Special Government Pleader for the first respondent and the learned Government Advocate for the respondents 2 and 3.



W.P(MD)No.3386 of 2024

2.The petitioner challenges the impugned notice dated 01.02.2024 issued by the President of the local body primarily on the ground that the land in question is petitioner's patta land and that it is not a water body belonging to the panchayat.

3.The learned Special Government Pleader on the other hand would state that FMB sketch indicates the existence of channel across the petitioner's patta land. According to him, this is probabalized by a detail mark in the FMB sketch.

4.We do not want to go into the merits of controversy. We have been consistently holding that while the President of the local body will have the power to issue such notices, he cannot physically cause removal of any encroachment. He has to necessarily fall back on the revenue authorities. Reference will have to be made to the jurisdictional Tahsildar who will have to take action under the Tamil Nadu Land Encroachment Act, 1905. As and when, any notice is issued under the said Act, the petitioner can always place his objections before the said authority.



W.P(MD)No.3386 of 2024

WEB COPY

5. Leaving open all the defences of the petitioner, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S.J.) & (B.P.J.)
15.02.2024

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

To:-

1. The Tahsildar,
Thiruppathur,
Sivagangai District.
2. The Block Development Officer,
Kallal Panchayat Union,
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W.P(MD)No.3386 of 2024



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W.P(MD)No.3386 of 2024

**G.R.SWAMINATHAN, J.
and
B.PUGALENDHI, J.**

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W.P(MD)No.3386 of 2024

15.02.2024