



W.P(MD)No.3597 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 20.02.2024

CORAM

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

W.P(MD)No.3597 of 2024

and

W.M.P.(MD)Nos.3550, 3551 and 3552 of 2024

1.Bakiyam

2.Kannathal

3.Selvi

4.Thirumangai

... Petitioners

Vs.

1.The District Collector,
Sivagangai Taluk,
Sivagangai District.

2.The Tahsildhar,
Sivagangai Taluk,
Sivagangai District.

3.The Block Development Officer,
Kalayarkovil Panchayat Union,
Sivagangai District.

4.The Panchayat President,
Surakkulam Village Panchayat,
Sivagangai District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned orders passed by the 4th respondent in Na.Ka.Su.U.010/2023 dated 24.01.2024 and quash the same and consequently forbear the 1 to 4 respondents from evicting the petitioners from the house situated in S.No.130/47, 130/48, 130/49 and 130/50 at Surakkulam, Sivagangai District.

For Petitioners : Mr.K.Navaneetharaja

For Respondents : Mr.K.Balasubramani,
Spl. Government Pleader.

ORDER

Heard both sides.

2.The petitioners challenge 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



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

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

**(G.R.S.J.) & (B.P.J.)
20.02.2024**

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

To:-

1.The District Collector,
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2.The Tahsildhar,
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and
B.PUGALENDHI, J.**

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**20.02.2024
(2/2)**