



W.P.(MD) No.3664 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) No.3664 of 2024
and
W.M.P.(MD)Nos.3589 and 3590 of 2024**

B.Mahalakshmi

... Petitioner

-VS-

1.The District Collector,
Pudukkottai District,
Pudukkottai.

2.The Revenue Divisional Officer,
Illupur,
Pudukkottai District.

3.The Tahsildar,
Kulathur Taluk,
Pudukkottai District.

4.The Executive Officer,
Selection Grade Town Panchayat,
Keeranur,
Pudukkottai District.

5.Samikannu
(R5 is impleaded vide Court
order dated 13.08.2024 made in
W.M.P.(MD)No.10828 of 2024 in
W.P.(MD)No.3664 by RSMJ & LVGJ)

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned notice dated 30.01.2024 in Na.Ka.No.32/2023 issued by the fourth respondent and quash the same as illegal.

For Petitioner	: Mr.A.Mohan
For Respondents 1 to 3	: Mr.S.R.A.Ramachandran Additional Government Pleader
For 4 th Respondent	: Mr.S.P.Maharajan, Special Government Pleader
For 5 th Respondent	: Mr.M.Ramu

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

The challenge in this Writ Petition is to the proceedings of the fourth respondent, requiring the petitioner to remove the encroachment allegedly made by her in Survey No.622/3 to an extent of 0.27 Sq. meter.

2.The petitioner would claim that she has been favoured with patta for about 5 centiares in Survey No.621/23 and she has been in possession of the same. The fact that there has been an encroachment by her, has been denied. The impugned proceedings has been issued pursuant to the order of this Court made in W.P.Nos.15019 of 2023 and 26201 of 2023, launched by the fifth respondent in this Writ Petition. Since the land in question is claimed to be classified as road and vests in the Selection Grade Town Panchayat, the relevant provision would be Clause (b) of Sub section (1) of



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Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998, which enables removal of encroachment by the Executive Officer of the Local Authorities and also requires the said Officer to issue a show cause notice returnable by seven days and thereafter, consider the objections, if any received and pass an order of eviction.

3.A perusal of the order impugned in these proceedings would show that the said procedure was not adopted. The Authority has directed the petitioner to remove the encroachment. Though the notice is flawed, we direct the notice to be treated as show cause notice issued under Clause (b) of Subsection (1) of Section 128, the petitioner will submit his reply within a period of seven days from today, to the Execution Officer who will consider the same and pass appropriate order under proviso to Section 128. The Authorities will conduct the survey, if required.

4.The Writ Petition is disposed of with the above observation. No Costs. Consequently, connected miscellaneous petitions are closed.

[R.S.M., J.]

[L.V.G., J.]

13.08.2024

NCC : No
Index : No
Internet : Yes
Mrn/Sml



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R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

Mrn/Sml

To

- 1.The District Collector,
Pudukkottai District,
Pudukkottai.
- 2.The Revenue Divisional Officer,
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Pudukkottai District.
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