



W.P(MD)No.12383 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

W.P(MD)No.12383 of 2024

P.Sadayandi

... Petitioner

VS.

1.The District Collector,
Office of the District Collector,
Sivagangai District.

2.The Tahsildar,
Office of the Tahsildar,
Thirupuvanam Taluk,
Sivagangai District.

3.The Block Development Officer,
Thirupuvanam Taluk,
Sivagangai District.

4.The Commissioner,
Thirupuvanam Panchayat,
Sivagangai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records relating to the impugned order passed by the fourth respondent in his proceedings in Na.Ka.No.B3/227/2024, dated 06.05.2024 and quash the same as illegal.

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For Petitioner : Mr.V.P.Rajan
For Respondents : Mr.S.Shaji Bino
Special Government Pleader

ORDER

(Order of the Court was made by R.SURESH KUMAR, J.)

The prayer sought for in this Writ Petition is for a Writ of Certiorari, to quash the impugned order passed by the fourth respondent in his proceedings in Na.Ka.No.B3/227/2024, dated 06.05.2024.

2.The fourth respondent has issued a notice, dated 06.05.2024 addressing to various persons including the petitioner stating that they have been in encroachment of properties at various survey numbers that have been mentioned in the said notice and directed them to remove such encroachment on their own costs, otherwise action would be taken against them to remove them. Challenging the same, the present Writ Petition has been filed.



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3.Mr.V.P.Rajan, learned counsel appearing for the petitioner, has contended that there are various survey numbers in 505. One of the survey numbers is 505/27, which land also belongs to the Government out of which an extent of 0.01.39 ares has been culled out and a free house site patta has been given to the petitioner by the orders of the second respondent, dated 28.04.2022 and a copy of such proceedings issued by the second respondent also have been filed in the typed set of documents.

4.Out of 0.01.39 ares of land at Survey No.505/27, a portion of 0.00.70 square meters has been culled out and subdivided as Survey No.505/29, where the petitioner has constructed a dwelling house and residing there.

5.Without taking notice of this sub-division and entrustment of the land by way of free patta, which was given in the year 2022 itself to the petitioner, now the impugned notice since has been issued, a reply stating these factors have been given by the petitioner on 30.05.2024. Despite that, the respondents are trying to evict the petitioner from the said land. Therefore, the petitioner has moved the present Writ Petition, he contended.



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6.Heard Mr.S.Shaji Bino, learned Government Pleader, appearing for the respondents, who would submit that, if at all free house site patta has been given in the sub-divided land at Survey No.505/29 to the extent of 0.00.70 square meters, where if he has put up a dwelling house that would not be considered as an encroachment. Therefore, to that extent, clarification can be given by disposing of this Writ Petition with liberty to the respondents to proceed against other encroachers in respect of the lands which has been mentioned in the impugned notice, he contended.

7.Having considered the said submissions made by both sides and having gone through the materials placed before this Court, we deem it appropriate to give the following directions:

'(i) That the petitioner's possession and enjoyment of the property, ie., dwelling house, in the free house patta land at Survey No.505/29 to the extent of 0.00.70 square meters are concerned, it shall not be disturbed by the respondents.



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(ii) But at the same time, if any other land beyond the said extent is encroached upon or occupied by the petitioner, it is open to the respondents to take action in accordance with law.

(iii) Since the impugned notice does not disclose Survey No.505/29, it need not have been served on the petitioner, therefore, to that extent, the order impugned would not bind the petitioner and therefore, it cannot be acted upon against the petitioner. But at the same time, if the respondents find that the petitioner has occupied any other land or beyond the extent that has been entrusted to him in Survey No.505/29, it is open to the respondents to take action against him in accordance with law.'

8.With these observations and directions, this Writ Petition is ordered accordingly. However, there shall be no order as to costs.

NCC : Yes / No
Index : Yes / No

[R.S.K.,J.] [G.A.M.,J.]
12.06.2024

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R.SURESH KUMAR,J.
and
G.ARUL MURUGAN,J.

ps

ORDER MADE IN
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DATED : 12.06.2024