



W.P(MD)No.13723 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2024

CORAM:

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

W.P(MD)No.13723 of 2018
and
W.M.P(MD)No.12465 of 2018

G.Annadurai

... Petitioner

vs.

1.The District Collector,
Karur.

2.The Block Development Officer,
Village Panchayats,
Krishnarayapuram,
Karur.

... 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 pertaining to the impugned notice passed by the second respondent in Na.Ka.Aa3/66/2013 dated 12.06.2018 and quash the same.

For Petitioner : Mr.G.M.Xavier

For Respondents : Mr.V.Nirmal Kumar,
Government Advocate



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ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The petitioner has filed this writ petition challenging the impugned notice issued by the second respondent in Na.Ka.Aa3/66/2013, dated 12.06.2018.

2. When the matter is taken up for hearing today, the learned Government Advocate appearing for the respondents, on instructions, would submit that the petitioner has encroached the land, which is classified as 'Sandai' which is under the control of the respondent panchayat and the impugned notice is only a notice issued by the second respondent calling for explanation from the petitioner.

3. However, the learned counsel appearing for the petitioner would contend that since the land belongs to the panchayat, the Tamil Nadu Land Encroachment Act, 1905, will not be applicable to this case and only the provisions under the Tamil Nadu Panchayats Act, 1994, will apply to the case.



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and therefore, the impugned notice issued by the second respondent is liable to be set aside.

4. The learned Government Advocate has also not disputed the said fact that the land in which encroachment has been made by the petitioner is classified as ‘Sandai’ and the same is under the control and maintenance of the Panchayat .

5. We have gone through the said impugned notice issued to the petitioner asking the petitioner to vacate the land in question within fifteen days, failing which, action will be taken for removal of encroachment. However, the point arises for consideration in this writ petition is whether the said notice issued under the Tamil Nadu Land Encroachment Act, 1905, is valid or not.

6. We are of the view that since the subject land comes under the control of the Panchayat, the impugned notice issued by the second respondent under the Tamil Nadu Land Encroachment Act, is not sustainable and therefore, we have no hesitation to set aside the impugned notice issued by the second respondent.



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7. In the result, this writ petition stands allowed and the impugned order of the second respondent, dated 12.06.2018, is hereby set aside. If there is any encroachment by the petitioner, liberty is granted to the authorities to issue fresh notice to the petitioner calling for explanation from the petitioner and thereafter, proceed to pass orders for removal of encroachment, after providing opportunity to all the persons concerned. Such exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected Miscellaneous Petition is closed.

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

27.02.2024

NCC : Yes / No
Index : Yes / No
PM

To

- 1.The District Collector,
Karur.
- 2.The Block Development Officer,
Village Panchayats,
Krishnarayapuram,
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and
R.VIJAYAKUMAR,J.

PM

ORDER MADE IN
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