



W.P.(MD) No.22497 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.10.2024

CORAM:

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

**W.P.(MD) No.22497 of 2024
and
W.M.P.(MD)Nos.19055 and 19056 of 2024**

Arunachaladevi

... Petitioner

-VS-

- 1.The District Collector,
Tenkasi District,
Tenkasi.
- 2.The District Revenue Officer,
Tenkasi District,
Tenkasi.
- 3.The Revenue Divisional Officer,
Sankarankovil Revenue Division,
Sankarankovil,
Tenkasi District.
- 4.The Tahsildar,
Sankarankovil Taluk,
Sankarankovil,
Tenkasi District.
- 5.The Block Development Officer (Village),
Sankarankovil Panchayat Union,
Sankarankovil,
Tenkasi District.



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6.The President,
Ramanathapuram Panchayat Union,
Sankarankovil Taluk,
Tenkasi District.

7.A.Gurusamy

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to reconstruct the residential scheme house – Type “RHH” constructed by the Tamil Nadu State Government under in the year 1985 – 1986, situated at Indira Colony, Melur Panchayat Union, Melur Taluk, Madurai District, on the basis of the petitioner's representation dated 14.05.2024.

For Petitioner	: Mr.F.X.Eugene
For Respondents 1 to 4	: Mr.P.Thilakkumar Government Pleader
For Respondents 5 & 6	: Mr.S.R.A.Ramachandran, Additional Government Pleader

ORDER

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

Mr.P.Thilakkumar, learned Government Pleader takes notice for the respondents 1 to 4. Mr.S.R.A.Ramchandran, learned Additional Government Pleader takes notice for the respondents 5 and 6.

2.Action taken under the Land Encroachment Act, 1905, for removal of the encroachment was challenged by the petitioner before the District Collector in an Appeal under Section 10 of the Act. The District Collector had dismissed the Appeal, vide order dated 07.09.2024. Hence, the



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petitioner is before us, challenging the order of the District Collector.

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3.Though Mr.F.X.Eugene, learned counsel appearing for the petitioner would vehemently contend that the land in Survey Nos.1195/24, which has been sandwiched between Survey Nos.1195/23 and 25, belonged to the petitioner has been in the occupation of the petitioner for several years and it has been wrongly classified as pathway (நடைபாதை).

4.Considering the submission of the learned counsel for the petitioner, we had directed the learned Government Advocate to produce 'A' Register of the Village. The 'A' Register of the Village shows that Old Survey No.971 is classified as Village Natham and after re-survey, it has been given a new Survey No.1195 and there are several sub division in Survey No.1195, while Survey Nos.1195/23 and 25 are classified as house sites. Survey No. 1195/24 has been specifically shown as Sarkar Poramboke pathway (சர்கார் புறம்போக்கு நடைபாதை) measuring about 40 square metres. The District Collector upon examination of records and the nature of encroachment has found that the petitioner has encroached upon an extent of 21 square metres, leaving an extent of 19 square metres, which serves as pathway. Once the petitioner is not shown to be owner of Survey No.1195/24 in the revenue records, merely because encroachment has been done several years back, it cannot be said that the encroachment cannot be removed. Once it is found that the land is classified as a pathway, any encroachment therein



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will have to be removed. The only requirement is that the authority should follow the procedure prescribed either in the Land Encroachment Act or under relevant enactment of the Local Bodies concerned. We find that the procedure prescribed under the Land Encroachment Act, 1905, has been meticulously followed and the petitioner has exhausted the Appeal remedy available under the enactment. It is stated that the civil suit is also pending.

5.In this background facts, we do not think we can interfere with the eviction process. If the petitioner succeeds in the civil suit, she can recover possession from the Government.

6.The Writ Petition is therefore, dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

[R.S.M., J.]

[L.V.G., J.]

15.10.2024

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



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L.VICTORIA GOWRI, J.

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