



W.P.(MD) No.24141 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.10.2024

CORAM:

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**W.P.(MD) No.24141 of 2024
and
W.M.P.(MD) No.20415 of 2024**

K.C.Savariarokiam

... Petitioner

-VS-

1.The District Collector
District Collector Office
Madurai

2.The Tahsildar
Madurai North Taluk
Madurai

3.The Block Development Officer
Madurai West Union Office
Madurai

4.The Revenue Inspector
Kulamangalam Hamlet
Madurai North Taluk
Madurai

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned notice issued by the fourth respondent herein under Section 7 of the Land Encroachment Act, 1905 dated 03.10.2024 and quash the same as illegal and consequently direct the fourth respondent to regularize and sanction permission for under construction public library in the Open Space Reserved area situated at S.No.128/4, 128/5 in the park situated at Porkodi Nagar, Pothumbu Panchayat.

For Petitioner : Mr.P.Jeyasankar

For Respondents : Mr.D.Gandhiraj
Special Government Pleader

ORDER

[Order of the Court was made by P.VELMURUGAN, J.]

Mr.D.Gandhiraj, learned Special Government Pleader, takes notice for the respondents and with the consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

2. The notice, dated 03.10.2024, issued by the fourth respondent, under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, calling for an explanation to be submitted on or before 09.10.2024 from the petitioner,



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who is the President of Porkudil Nagar Residents' Association, as to why the encroachment (public library) made in the open space reservation area, should not be removed, is under challenge in this writ petition.

3. Though the petitioner has assailed the impugned notice on several grounds, today, learned counsel for the petitioner, after some arguments, on instructions, submitted that since the petitioner has filed a statutory appeal before the Tahsildar / second respondent on 05.10.2024, as against the impugned notice, dated 03.10.2024, issued by the fourth respondent, necessary directions may be issued to the Tahsildar / second respondent to dispose of the said appeal on merits and in accordance with law, after affording due opportunity of hearing to the parties concerned, within a time frame to be fixed by this Court. In support of the said contention, learned counsel for the petitioner drew the attention of this Court to Page Nos. 20 to 22 in the typed set of papers, wherein the petitioner has annexed a copy of the appeal as well as the postal receipt.

4. Learned Special Government Pleader appearing for the respondents has no serious objection for the above submission of the learned counsel for the petitioner.



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5. A perusal of the typed set of papers shows that challenging the impugned notice, dated 03.10.2024, issued by the fourth respondent, under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, the petitioner has filed a statutory appeal before the Tahsildar / second respondent on 05.10.2024 and the same is pending disposal.

6. Taking into consideration the above submission of the learned counsel for the petitioner and also taking into consideration the facts and circumstances of the case, we direct the Tahsildar / second respondent to take the appeal filed by the petitioner on 05.10.2024, challenging the impugned notice, dated 03.10.2024, issued by the fourth respondent, on file, if it is otherwise in order, issue notice to all the parties concerned, including the petitioner and the rival parties, if any, and dispose of the said appeal on merits and in accordance with law, within a period of forty (40) days from the date of receipt of a copy of this order. Till the disposal of the said appeal, the parties shall maintain the *status quo* prevailing as on date. The petitioner is directed to cooperate with the authority concerned for the disposal of the appeal filed by him within a time as stipulated above. If the petitioner is not cooperating with the authority concerned and if he tried to protract the appeal by seeking adjournments or otherwise, the order of *status quo* shall stand



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vacated automatically, without any reference to this Court, and the respondents shall proceed further with the impugned notice.

7. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[P.V., J.] [M.J.R., J.]

09.10.2024

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

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To:

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Madurai.
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