



W.P(MD)No.21701 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2024

CORAM:

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

**W.P(MD)No.21701 of 2017
and
W.M.P(MD)Nos.17999, 18000 & 18001 of 2017**

L.Lilly Ammani

... Petitioner

VS.

1.The Madurai Corporation,
Through its Commissioner,
Anna Maligai,
Tallakulam,
Madurai.

2.The District Collector,
Madurai,
Madurai District.

3.The Tahsildar,
Madurai South,
Madurai.

4.G.Jothi Ammal

... 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 proceedings of the impugned removal of encroachment notice in



W.P(MD)No.21701 of 2017

WEB COURT Mathi1/Ma1/19374/2017 dated 06.11.2017 on the file of the first respondent and quash the same.

For Petitioner	: Mr.G.Prabhu Rajadurai
For Respondent No.1	: Mr.K.K.Kannan
For Respondent Nos.2 & 3	: Mr.T.Amjadkhan Government Advocate

ORDER

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

Prayer in this Writ Petition is to quash the proceedings of the impugned notice, dated 06.11.2017 on the file of the first respondent.

2.According to the petitioner, she is the owner of the plot bearing Survey No.1617/1A measuring about 34 square meters in North Gate, S.S Colony, Madurai and residing along with her family members and the said house plot was originally a part of the longer extent of land bearing T.S.No.1617/1A measuring about 2.435 acres and classified as G.R Puram and the petitioner and other families belonging to poorer section, came to occupy a small portion of the said land and constructed houses. In the year 1990, proceedings were initiated by the respondents for the grant of patta to such occupants and the revenue department surveyed the property, identified the occupants and demarcated the respective portion of such

2/7



W.P(MD)No.21701 of 2017

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occupants. On completion of such exercise, the revenue by letter, dated 16.03.1992 requested the Corporation to submit its proposal by way of council resolution. The Corporation Council by resolution dated 09.03.1994 expressed its consent for the grant of patta to the occupants and pattas were issued to all the occupants including the petitioner. As the original tiled house has become dilapidated, the petitioner submitted an application before the first respondent for the construction of a concrete house and the first respondent by order dated 19.03.2015 approved the planning permission. The petitioner constructed the house in accordance with the plan and paid the property tax regularly to the first respondent. While so, the first respondent issued the impugned notice, dated 06.11.2017 to the petitioner for removal of encroachment. Challenging the same, the petitioner has filed the present Writ Petition.

3.The learned counsel appearing for the first respondent Corporation would submit that the petitioner had encroached the Corporation road and a water channel located in Survey Ward V, Block 23, 25, Survey No.1617/1A, Janaki Narayanan Street Junction, S.S.Colony North Gate, Ward No.18, Madurai. Further, the petitioner had constructed a shop on the ground floor and used the first floor for residential purposes.

3/7



W.P(MD)No.21701 of 2017

WEB COPY

Since the petitioner has encroached upon the property in question, notice has been issued to the petitioner. Since the petitioner relied upon the patta based on a resolution of the Corporation Council, dated 09.03.1994, the first respondent Corporation had sent a communication to the third respondent/the Tahsildar, Madurai South to verify the genuineness of the patta granted in favour of the petitioner. Further, the petitioner has not obtained any building plan permission from the authority concerned. According to the first respondent, the Writ Petition is filed at the pre-mature stage, since the final decision of the Tahsildar is awaited and therefore, prays for dismissal of the Writ Petition.

4.Considering the fact that the first respondent has addressed to the third respondent/Tahsildar, Madurai South for verification of the genuineness of the patta granted in favour of the petitioner and the same is pending, the issue has to be decided by the third respondent/the Tahsildar and therefore, no further order is required in this Writ Petition. However, we make it clear that the third respondent/the Tahsildar has to verify the genuineness of the said patta granted in favour of the petitioner and to take appropriate decision for the aforesaid communication sent by the first respondent at the earliest, after affording due opportunity to the parties



W.P(MD)No.21701 of 2017

concerned. Based on the report submitted by the third respondent, if it is found that there are encroachments in the property in question, the first respondent Corporation shall take necessary action for removal of the same, in accordance with law, after affording due opportunity to the parties concerned. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

5. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K.,J.] [R.V.,J.]
11.03.2024

NCC : Yes / No
Index : Yes / No
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W.P(MD)No.21701 of 2017

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D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

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ORDER MADE IN
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