



W.P.(MD).No.28065 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.12.2024

CORAM

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.P.(MD).No.28065 of 2024

and

W.M.P.(MD).Nos.23812 to 23815 of 2024

Palaniappan

... Petitioner

Vs.

1.The District Collector,
Pudukkottai District,
Pudukkottai.

2.The Tahsildar,
Alangudi Taluk,
Pudukkottai District.

3.The Block Development Officer,
Thiruvarangulam Panchayat Union,
Pudukkottai District.

4.The Taluk Head Surveyor,
Alangudi Taluk,
Pudukkottai District.

5.The Inspector of Police,
Keeramangalam Police Station,
Alangudi Taluk,
Pudukkottai District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned notices in Na.Ka.No.Thi3/2451/2024 dated 08.10.2024 of the third respondent (i.e., the Block Development Officer, Thiruvarangulam) and quash the same and consequently direct the respondents to survey the petitioner's land and only after demarcation of the four boundaries (in S.No.120/15A1 of an extent of 0.16.06 Ares, S.No.120/14A2B of an extent of 0.0.3 Ares and S.No. 120/15B of an extent of 0.3 Ares situated at Kothamangalam North, Alangudi Taluk based on application dated 30.08.2024) and then proceed further with the removal of encroachment in accordance with law and as per the directions of this Court for removal of such encroachment.

For Petitioner : Mr.Karthikeya Venkitachalapathy
For R-1 to R-4 : Mr.S.R.A.Ramachandran
Additional Government Pleader
For R-5 : Mr.P.Kottai Chamy
Government Advocate (Crl. Side)

ORDER

(Order of the Court was made by M.S.RAMESH,J.)

This Writ Petition has been filed challenging the impugned notice of the third respondent dated 08.10.2024 and consequently direct the respondents to survey the petitioner's land and only after demarcation of the four boundaries



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(in S.No.120/15A1 of an extent of 0.16.06 Ares, S.No.120/14A2B of an extent of 0.0.3 Ares and S.No. 120/15B of an extent of 0.3 Ares situated at Kothamangalam North, Alangudi Taluk based on application dated 30.08.2024) and then proceed further with the removal of encroachment in accordance with law and as per the directions of this Court for removal of such encroachment.

2. The impugned notice under Section 131(2) of the Tamil Nadu Panchayats Act, 1994, directs the petitioner herein to vacate the property, alleging it to be an encroachment.

3. It is submitted by the learned counsel for the petitioner that the petitioner is the owner of the lands in Survey Nos.120/15A1, 120/14A2B, 120/15B and that, earlier, this Court had passed orders on 04.11.2024 in W.P. (MD).No.26265 of 2024, directing the respondents to conduct a survey over the subject lands. According to the learned counsel for the petitioner, if such a survey is conducted over these survey numbers, it would reveal that the petitioner is not in possession of Survey No.121/1, which is the subject matter of the impugned notice.



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4. Prior to passing the impugned order to evict any encroacher, the respondents are mandated to conduct a survey in order to ascertain the area of encroachment. In the present case, though the learned Additional Government Pleader appearing for the respondents 1 to 4 contended that a survey was conducted on 13.04.2024, the learned counsel for the petitioner disputes the same. However, the learned Additional Government Pleader also fairly conceded that no prior notice was given to the petitioner when such survey was conducted and submitted, on instructions, that they are willing to conduct another survey.

5. In the light of the submissions made, the impugned notice, without conducting of survey and directing the petitioner herein to vacate the subject property, cannot be legally sustained. Accordingly, the impugned notice dated 08.10.2024 on the file of the third respondent is set aside. Consequently, the respondents are at liberty to conduct survey of the properties in Survey Nos.121/1, 120/15A1, 120/14A2B and 120/15B at Kothamangalam North Village, Alangudi Taluk, Pudukkottai District, after issuing notice to the petitioner and all other persons, who may be interested in the subject property and take further course of action as per law.



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6. With the above liberty, this Writ Petition stands partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(M.S.R.,J.) (A.D.M.C.,J.)
04.12.2024

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

To

- 1.The District Collector,
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