



W.P.(MD)No.28282 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

and

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.P.(MD)No.28282 of 2024

and

W.M.P.(MD)Nos.23977 & 23978 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.



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5.The President,
Pothumbu Village Panchayat,
West Union,
Madurai.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings issued by the second respondent in Na.Ka.No.440/2024/Aa5 dated 21.11.2024 and quash the same as illegal and consequently direct the respondents 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 1 & 4 : Mr.J.Ashok

Additional Government Pleader

For Respondents 2,3&5 : Mr.SRA.Ramachandran

Additional Government Pleader

O R D E R

[Order of the Court was made by M.S.RAMESH, J.]

By consent of both sides, the writ petition itself is taken up for final disposal at the stage of admission itself.



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2.Challenging the impugned notice of the second respondent dated 21.11.2024, the petitioner is before this Court.

3.After issuance of a notice under Section 7 of 'the Tamil Nadu Land Encroachment Act, 1905' (hereinafter referred to as 'the Act') dated 03.10.2024, calling for the petitioner's objections, proposed action of removing of the encroachment, an order under Section 6 of the Act dated 21.11.2024 has been issued.

4.As against an order of eviction passed under Section 6 of the Act, an appeal remedy is provided for under Section 10 of the Act to the District Collector.

5.What is put under challenge in the present writ petition is only a consequential notice, which is not an action provided under the Act for evicting the petitioner from the subject lands. The petitioner has chosen to challenge the final orders passed under Section 6 of the Act. Even otherwise, when the Act provides for an effective appeal remedy before the District Collector against order under Section 6, it would not be appropriate to entertain the present writ petition, which challenges the Section 6 notice.



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Hence, we are of the view that an opportunity can be given to the petitioner to avail the statutory remedy and protect his possession till such time.

6.In the light of the above observation, the petitioner is granted liberty to file an appeal before the first respondent District Collector under Section 10 of the Act within a period of ten [10] days from the date of receipt of a copy of this order. Till such time, the respondents 1 to 5 shall not take any coercive action to disturb the petitioner's possession over the subject land.

7.Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

[M.S.R.,J.] & [A.D.M.C.,J.]

26.11.2024

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR



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M.S.RAMESH, J.
and
A.D.MARIA CLETE, J.

MR

ORDER MADE IN
W.P.(MD)No.28282 of 2024

26.11.2024