



W.P.(MD)No.29001 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

and

THE HONOURABLE MR.JUSTICE A.D.MARIA CLETE

W.P.(MD)No.29001 of 2024

and

W.M.P.(MD)No.24573 of 2024

Abrose Banu

: Petitioner

Vs.

1.The State of Tamil Nadu,

Rep. by the District Collector,

Pudukkottai District.

2.The Tahsildhar,

Aranthangi Taluk,

Pudukkottai District.

3.The Block Development Officer,

Aranthangi Panchayat Union & Taluk,

Pudukkottai District.

4.The Revenue Inspector,

Poovatrakudi Firkha,

Aranthangi Panchayat Union & Taluk,

Pudukkottai District.



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5.The President,
Merpanaikadu Village Panchayat,
Keeramangalam (Via),
Aranthangi Taluk,
Pudukkottai District.

6.Kadarsha : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned notice issued by the second respondent in Na.Ka.No.480/2024/2,5 dated 08.11.2024 and quash the same as illegal and consequently direct 2 & 5 respondents to allot the fund and install drainage system in Ward No.8 & 10 in Muslim Streets, Merpanaikadu Village in Poovatrakudi Firka, Aranthangi Taluk, Pudukkottai District, within a time stipulated by this Court.

For Petitioner : Mr.P.M.Vishnu Varthanan

For Respondents 1,2&4 : Mr.J.Ashok

Additional Government Pleader

For Respondents 3 & 5 : Mr.S.R.A.Ramachandran

Additional Government Pleader



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ORDER

[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.

2.Since no adverse order is going to be passed against the private respondent, notice to the private respondent is dispensed with.

3.Challenging the impugned notice of the second respondent dated 08.11.2024, the petitioner is before this Court.

4.After issuance of a notice under Section 7 of 'the Tamil Nadu Land Encroachment Act, 1905' (hereinafter referred to as 'the Act') dated 25.09.2024, calling for the petitioner's objections, proposed action of removing of the encroachment, an order under Section 6 of the Act dated 08.11.2024 has been issued.

5.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.



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6.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. 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.

7.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 one [1] week 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.

8.The consequential prayer sought for in the present writ petition has nothing to do with the main prayer, wherein the



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eviction proceedings are sought to be quashed. In view of the same, the consequential prayer for a direction to the official respondents to allot funds and instal a drainage system stands dismissed.

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

[M.S.R.,J.] & [A.D.M.C.,J.]
03.12.2024

Neutral Citation : Yes/No
Index : Yes/No
Internet : Yes/No
MR



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and
A.D.MARIA CLETE, J.

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ORDER MADE IN
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