



WP(MD). No.7827 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 24/03/2025

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
AND
THE HONOURABLE MRS.JUSTICE S.SRIMATHY

WP(MD). No.7827 of 2025
and WMP(MD) Nos.5921 and 5922 of 2025

Mumtaj Begam

... Petitioner

Vs

1. The District Collector,
Office of the Collectorate Building,
Madurai District..

2. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Madurai District..

3. The Tahsildar,
Office of the Tahsildar,
Madurai East, Paramakudi,
Ramanathapuram District..

4. M.Syed Ali Fathima,
W/o.Mohamed Salih,
Sakkimangalam,
Madurai East,Madurai District..

... Respondents



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PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned notice issued by the 3rd respondent in Na.Ka.No.42/2024/A3, dated 12.03.2025 and quash the same

For Petitioner : Mr.J.Mohammed Ibrahim

For Respondents : Mr.J.Ashok for R1 to R3
Additional Government Pleader

ORDER

(Order of the Court was made by J.NISHA BANU, J.)

The writ petition has been filed against the impugned notice issued by the 3rd respondent dated 12.03.2025.

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

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



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4.The petitioner and her family members are in possession and enjoyment of the property in S.No.225/19 from the date of settlement deed dated 17.06.2019. However, alleging that the petitioner has encroached the Government property in the pathway by putting up compound wall and on the strength of the order passed in WP(MD) No. 6335/2024 filed by the 4th respondent herein, order of eviction was issued to the petitioner's husband on 12.03.2025. Challenging the said notice, the petitioner is before this Court.

5. The learned counsel for the petitioner would submit that the petitioner's husband died on 31.03.2024. However, notice was issued to a dead person on 12.03.2025 and without following the due procedure contemplated under the Land Encroachment Act, 1905. Hence, on the short ground, the learned counsel prays for interference.

6. However, the learned Additional Government Pleader would submit that pursuant to the order of this Court, survey was conducted and since the children of the petitioner have encroached the Government land by putting up a compound wall, an order directing them to remove the



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said compound wall has been issued. Hence, no interference is warranted to the said order.

7. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the official respondents.

8. Since the order/notice of eviction was issued in favour of the dead person, without hearing the petitioner and without following due procedure contemplated under the Land Encroachment Act, the impugned order is set aside and the writ petition is allowed. However, liberty is granted to the authorities to proceed in the manner known to law. No costs. Consequently connected Miscellaneous Petitions are closed.

[J.N.B.,J]

[S.S.Y.,J]

24.03.2025

NCC : Yes/No
Index : Yes/No
RR



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AND
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RR

ORDER
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