

W.P.(MD)No.2330 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.04.2026

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

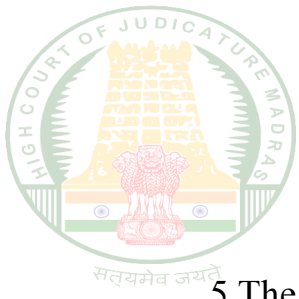
**W.P.(MD)No.2330 of 2022
and
W.M.P.(MD)Nos.2028, 18253, 18417 and 19138 of 2022**

The Correspondent,
St.Aloysius Higher Secondary School,
Karankadu,
Kanyakumari District.

... Petitioner

Vs.

- 1.The District Collector,
Kanyakumari District,
Office at Nagercoil.
- 2.The Thasildar,
Kalkulam Thaluk,
At Thuckalay,
Kanyakumari District.
- 3.The Commissioner,
Kuruthancodu Panjayat Union,
Kurunthancode,
Kanyakumari District.
- 4.The Block Development Officer,
Kattimancode Panchayath,
Kattimancode, Kanyakumari District.



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5.The President,
Kattimancode Panchayath,
Kattimancode,
Kanyakumari District.

6.G.Arulraj

7.G.Pragasam

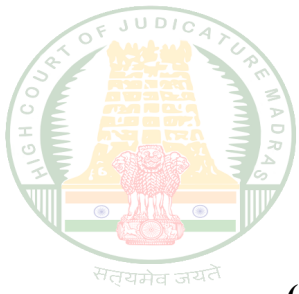
8.G.Arulanantham

9.O.Homaerlal ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records in Na.Ka.No.A5/4019/2021 dated 30-12-2021 issued by the 3rd respondent and quash the same and thereby direct the respondents 1 to 4, not to take any steps for the demolition of the existing school building in resurvey No.284/1 belongs to St.Aloysius Higher Secondary School, Karankadu, Kanyakumari district till the disposal of the suit in O.S No.169 of 2010 pending before the learned District Munsiff Court, Eraniel.

For Petitioner : Mr.G.Cenil

For Respondents : Mr.G.V.Vairam Santhosh,
Addl. Government Pleader for R1 to R5.
Mr.S.C.Herold Singh for R6
Mr.C.T.Perumal for R7 & R8
Mr.Thirumalaiappan for R9



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ORDER

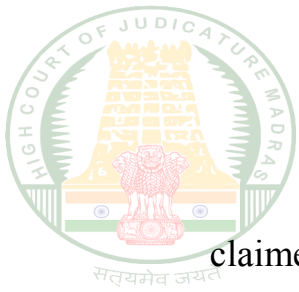
(Order of the Court was delivered by G.R.Swaminathan, J.)

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Heard both sides.

2.The third respondent herein had issued the impugned notice dated 30.12.2021 calling upon the petitioner herein to remove the encroachment within twenty one days. Challenging the same, this writ petition has been filed.

3.Strictly speaking this writ petition is not maintainable. The Hon'ble Supreme Court in the decision reported in **AIR 1952 SC 12 (State of Orissa Vs. Madan Gopal Rungta)** had held that under Article 226 of the Constitution of India, the final relief cannot be in the nature of an interim relief. But we do not want to dismiss the writ petition on this technical ground. The suit appears to have been dismissed. Be that as it may, the impugned order was passed only by the Commissioner of Panchayat Union. While the Commissioner can make a demand for removal of encroachment, the question that calls for consideration is whether he can enforce it. The Commissioner has



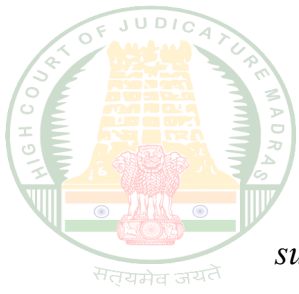
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claimed that under Section 132 of the Tamil Nadu Panchayats Act, 1994 and Rule 9 of the Tamil Nadu Panchayats (Restriction and Control to Regulate the Use of Porambores in Ryotwari Tracts) Rules, 2000, he is entitled to remove the encroachment in question.

4. We want to remind the third respondent that Section 132 of the Tamil Nadu Panchayats Act has nothing to do with the case on hand. Probably, the third respondent had in mind Section 131(2) of the Act. It reads as follows:-

“131. Prohibition against obstructions in or over public roads, etc.-

(2) It shall be the duty of the Village Administrative Officer of every revenue village to report on encroachments on properties vested in Village Panchayats or Panchayat Union Councils to the Executive Authority or the Commissioner concerned and to the officer of the Revenue Department, and [it shall be the duty of the Executive Authority or the Commissioner concerned either suo motto or on obtaining a report from the Village Administrative Officer in this regard to institute proceedings under this Act] and secure the removal of the encroachments within such time as may be specified by the Government by general or special order. If the removal of the encroachments has not been secured within the period specified in



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such order, the officers of the Revenue Department shall institute proceedings under the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905) and secure such removal.”

5.Rule 9 of the Tamil Nadu Panchayats (Restriction and Control to Regulate the Use of Poramboke in Ryotwari Tracts) Rules, 2000 reads as follows:-

“9.Removal of encroachment on Poramboke.- *The Village Panchayat shall take steps to remove encroachment on any Poramboke, the use of which is vested and regulated by the Act. If the Village Panchayat commits any default in doing so, the Village Administrative Officer shall issue B.Memo to the encroachment and after three months from the date of receipt of B.Memo by the Village Panchayat, the Tahsildar concerned shall order the removal of such of those encroachments as are considered objectionable by him. An appeal shall lie to the Revenue Divisional Officer against the orders passed by the Tahsildar. A second appeal shall lie against the order of the Revenue Divisional Officer with the District Collector.”*

6.The Hon'ble Division Bench vide order dated 12.06.2023 in W.P(MD)No.13837 of 2023 (Yogarajan Vs. The Tahsildar, Madurai East



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Taluk, Madurai District and another) had held that the in the event of the encroachers not complying with the demand made by the village panchayat, it is the Tahsildar who has to take action under the Tamil Nadu Land Encroachment Act. In fact, Rule 9 also states so.

7. Therefore, we dispose of this writ petition by clarifying that the third respondent cannot coercively enforce the impugned order. He can only make a reference to the Tahsildar and it is the Tahsildar, who has to take action under the Tamil Nadu Land Encroachment Act, 1905. As and when, the petitioner receives notice under the Tamil Nadu Land Encroachment Act, the petitioner can raise all his defences.

8. This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.S. J.) & (R.P. J.)
20.04.2026

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