

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.18431 of 2015 and M.P. No.1 of 2015

Bishop R. Theophilus

Petitioner

Vs.

- 1 The State of Tamil Nadu
represented by its Secretary to Government
Revenue Department
Fort St. George, Chennai 600 009
- 2 The District Collector
Collectorate of Ooty
Ooty, Nilgiris District
- 3 The District Revenue Officer
Collectorate of Ooty
Ooty, Nilgiris District
- 4 The Revenue Divisional Officer
O/o the Revenue Divisional Officer
Coonoor
Nilgiris District
- 5 The Tahsildar (Revenue)
Coonoor Taluk Office
Coonoor & Taluk, Nilgiris District
- 6 The Town Revenue Inspector
Coonoor Town, Coonoor Taluk
Nilgiris District

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of the notice under Section 6 of under III Land Encroachment Act, 1905 of Madras dated 25.05.2015 issued by the Tahsildar, Coonoor Nilgiris District the 5th respondent herein against the Land and Superstructure of Douglas Mission Children Home Extension about 80m cents (0.32.0 hectare) vide survey no.282/3, Sub-division 69/1, situated in Bharat Nagar, Wellington Barracks P.O., Coonoor Taluk, Nilgiris District and quash the same and to direct the respondents 2 to 5 to issue patta to the land property of an extent

of 80 cents (0.32.0 hectares) referred to above survey no.282/3 in Sub-Division 69/1, situated in Bearhutti Panchayat in Coonoor Taluk, Nilgiris District, on the basis of the petitioner's last representation dated 27.02.2015.

For petitioner Mr. Dalit Tiger C. Ponnusamy

For respondents Mr. P.S. Sivashanmugasundaram
Special Government Pleader

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the respondents. With the consent of the learned counsel on either side, the writ petition is taken up for final disposal at the admission stage itself.

2 Assailing the legality and validity of the eviction notice dated 25.05.2015 issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (for short "the Act"), the petitioner has come up with the instant writ petition.

3 The case of the petitioner is that he has been running a Home for orphans in the property in Survey No.69/1, Bearhutti Panchayat, Coonoor Taluk, Nilgiris District for the last over three decades. The land extension in which the said building was raised, was allotted to him by the Tahsildar, Coonoor, on his representation. Upto 2009, he was paying land tax, house tax and water tax regularly, which itself indicates that he has been in continuous possession of the property for the last several years. However, after 2009, the Tahsildar, Coonoor, refused to receive the said taxes. He had made a representation to the Tahsildar, Coonoor, to issue patta in respect of the above land extension measuring 80 cents in Survey No.282/3, Bearhutti Panchayat, Coonoor Taluk, Nilgiris District, on 23.03.1981. Not stopping with that, subsequently, he has made several representations and his last representation is dated 21.02.2015. But, without considering his case, the impugned eviction notice has been issued on 25.05.2015. According to the petitioner, by virtue of his continuous possession for over three decades, he is entitled to continue the possession of the said property.

4 On the basis of the averments made in the affidavit, we are not inclined to express any opinion on the merits of the case. It is left to the authorities to consider the matter and take a final decision.

5 On a perusal of the impugned notice, it is evident that no notice under Section 7 of the Act was given to the petitioner, affording an opportunity to him, to put forth his case and as such,

this notice cannot be acted upon, without affording an opportunity of hearing to him.

6 The learned Special Government Pleader appearing for the respondents submits that there is no indication in the impugned notice in respect of any previous notice or show cause notice and as such, the impugned notice may be treated as show cause notice, affording an opportunity to the petitioner.

7 In view of the aforesaid fair submission of the learned Special Government Pleader, we treat the impugned notice as show cause notice under the provisions of Section 7 of the Act and grant two weeks' time to the petitioner from today to place his case by way of representation/explanation before the authorities. The authorities are, thereafter, directed to examine the matter after proper verification and take consequential action, if need be. Such exercise shall be completed within a period of four weeks from the date of receipt of the petitioner's representation/explanation. Needless to state that each and every averment/statement/point raised by the petitioner is required to be adverted to, while passing a reasoned order.

8 The writ petition stands disposed of with the above direction and observation. Costs made easy. Connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

cad

To

1 The Secretary to Government
State of Tamil Nadu
Revenue Department
Fort St. George, Chennai 600 009

2 The District Collector
Collectorate of Ooty
Ooty, Nilgiris District

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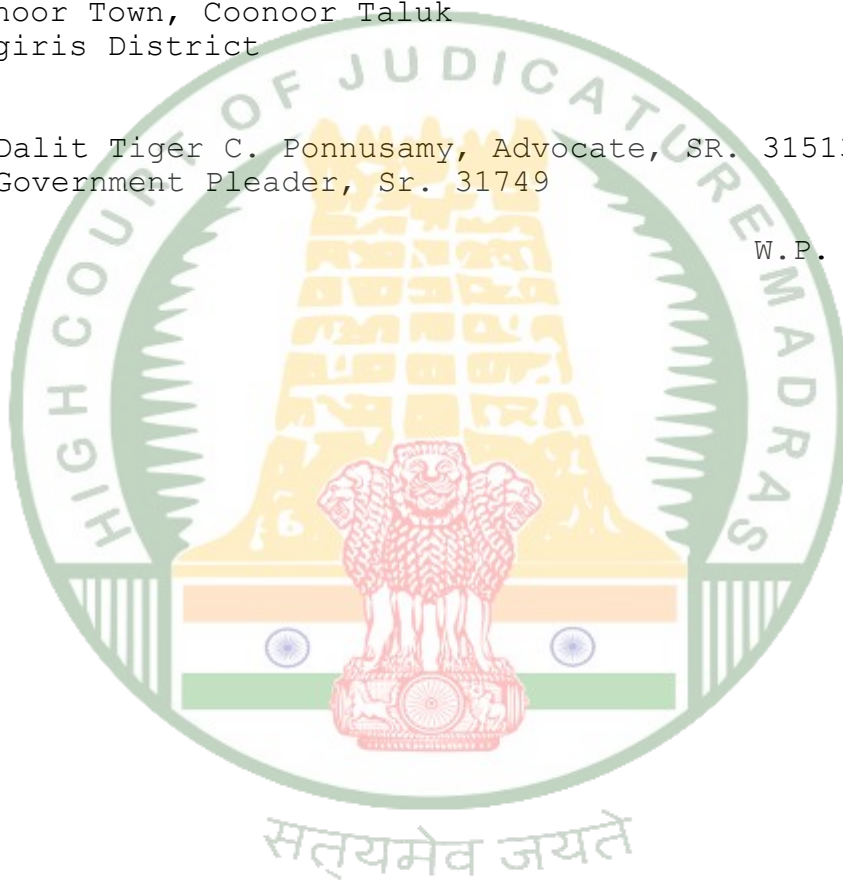
6 The Town Revenue Inspector
Coonoor Town, Coonoor Taluk
Nilgiris District

1 cc to Dalit Tiger C. Ponnusamy, Advocate, SR. 31513

1 cc to Government Pleader, Sr. 31749

W.P. No.18431 of 2015

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