



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:17.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.SUDHAKAR

AND

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD) .No.9667 of 2014

and

M.P (MD) Nos.1 to 3 of 2014

G.Mani

.. Petitioner

Vs.

1.The District Collector,
Thoothukudi District.

2.The Tahsildar,
Kovilpatti,
Thoothukudi District.

3.The Commissioner,
Kovilpatti Panchayat Union,
Kovilpatti,
Thoothukudi District.

4.The President,
Manthithoppu Panchayat,
Kovilpatti Taluk,
Thoothukudi District.

.. Respondents

Writ Petition is filed Under Article 226 of Constitution of India, praying to writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the third respondent, dated 06.06.2014 and that of the impugned proceedings of the third respondent, dated 13.06.2014 and quash the same and consequently forbear the respondents 1 to 3 from disturbing the peaceful possession and enjoyment of the property by the petitioner in survey No.88, Kovilpatti Taluk, Thoothukudi District to the extent of 154 sq.meters (Door No.53/5 (shop) and Door No.42/5, (House).

For Petitioner : Mr.R.Devaraj

For Respondents : Mr.A.K.Baskarapandian
(Special Government Pleader)

ORDER

[Order of the Court was made by **V.M.VELUMANI, J**]

The petitioner is challenging the notice issued under Section 17 of the Tamil Nadu Land Encroachment Act by the third respondent calling upon the petitioner to submit his explanation as to why he should



not be evicted from Government Poramboke/Odai Poramboke. The petitioner has not submitted any explanation, but approached this Court to quash the said notice.

2. According to the petitioner, his father and subsequently the petitioner and his wife are in possession and enjoyment of the property in question for more than 30 years. He also filed a suit in O.S.No.163 of 2009 on the file of the District Munsif Court, Kovilpatti, which was dismissed on 02.12.2011. Against the said dismissal, he filed an appeal in A.S.No.20 of 2012 on the file of the Sub Court, Kovilpatti and the same was also dismissed on 31.01.2013. According to the petitioner, he has filed second appeal along with petition to condone delay before this Court. Notice has been ordered in the said condone delay petition.

3. In view of the pendency of the civil proceedings, the petitioner has sought for quashing the impugned notice.

4. We have heard the learned counsel appearing for the petitioner and the respondents and perused the materials on record.

6. Admittedly, the property in question is a Government Poramboke. It is also shown as Odai Poramboke. In the show cause notice, it has been stated that encroachment by petitioner will affects the flow of water to Kanmai. The suit and appeal filed by the petitioner have been dismissed and the second appeal filed by the petitioner is in SR stage and the delay in filing the appeal has not been condoned. The present petition, challenging the notice is devoid of merits and is not maintainable. By the impugned notice, the petitioner has called upon to submit his explanation before any final order is passed.

7. In the circumstances, the petitioner is directed to submit his reply within 7 days from the date of receipt of a copy of this order. On receipt of such reply, the respondent is directed to consider the issue on merits and pass orders. Till the final orders are passed, the possession of the petitioner shall not be disturbed.

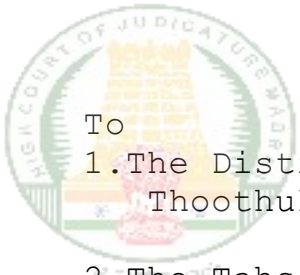
8. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(Per.Admin)

/True copy/

Sub Assistant Registrar



To

1.The District Collector,
Thoothukudi District.

2.The Tahsildar,
Kovilpatti,
Thoothukudi District.

3.The Commissioner,
Kovilpatti Panchayat Union,
Kovilpatti,
Thoothukudi District.

4.The President,
Manthithoppu Panchayat,
Kovilpatti Taluk,
Thoothukudi District.

+one cc to M/s.R.Devaraj, Advocate in SR.No.47273

+one cc to The Special Government Pleader, SR.No. 47448

W.P (MD) No.9667 of 2014
17.08.2015

CSL/NGM-SS/SAR (PA) / 01/09/2015
3p/7c