



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P. [MD].No.13183 of 2016

and

W.M.P. (MD)No.9931 and 9932 of 2016

K.Kasimayan : Petitioner

Vs.

1.Madurai Municipal Corporation,
Rep. by its Commissioner,
Arignar Anna Maaligai,
Thallakulam, Madurai.

2.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Revenue Department,
Fort St. George,
Chennai-600 009.

3.The District Collector,
Madurai District,
Madurai.

4.The Tahsildar,
Thirupparankundram Taluk,
Madurai District.

[R-2 to R-4 impleaded as per the order
of this Court dated 12.09.2016, in
W.M.P. (MD)No.10139 of 2016]

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records pertaining to the impugned notice issued by the first respondent in Z4A4/1707/16, dated 07.06.2016, and quash the same.

For Petitioner : Mr.R.Subramanian

For Respondent No.1 : Mr.R.Murali

For Respondents 2to4 : Mr.T.R.Janarthanan,
Additional Government Pleader

**O R D E R****[Order of the Court was made by S.NAGAMUTHU, J.]**

The dispute in this Writ Petition is in respect of the land comprised in T.S.No.129 (Old Survey No.99/6) at Ward No.77, Venkatachalapuram J.R. Road, Madurai City. According to the petitioner, he has been in occupation of the said property by constructing a concrete house on the same for several years and he has got some right to continue to be in possession of the same. But the first respondent issued a notice by proceedings dated 07.06.2016, in No.Z4A4/1707/16, calling upon the petitioner to vacate the said property as though the property belongs to the Madurai Corporation.

2. The learned counsel for the petitioner would submit that the petitioner has got enormous documents to prove his right to continue to occupy the building. He would further submit that at any rate, the first respondent has got no right or title over the property and at the most, it is only for the Government to take action, if at all, it is found that the land belongs to the Government.

3. In our considered view, these questions are disputed questions of fact, which cannot be resolved without evidence being let in. Such course is possible only before the competent Civil Court. When this was pointed out, the learned counsel for the petitioner submitted that this Writ Petition may be disposed of giving liberty to the petitioner to work out his remedy before the competent Civil Court.

4. The learned Standing Counsel appearing for the first respondent would submit that the petitioner has got no right whatsoever to occupy the building.

5. Having regard to the rival submissions made, without going into the question as to whether the petitioner is entitled to continue to occupy the property in question or not, we dispose of the Writ Petition, leaving it open for the petitioner to approach the competent Civil Court for appropriate relief, if he is entitled for any such relief. Considering the request of the learned counsel for the petitioner, it is directed that to enable the petitioner to approach the Civil Court, for a period of four weeks from the date of receipt of a copy of this order, there shall be no eviction by the respondents. After the expiry of four weeks, the parties shall be bound by the proceedings of the Civil Court, if any such civil proceedings is initiated by the petitioner or the respondents. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/

Assistant Registrar(RTI)

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To

1.The Commissioner,
Madurai Municipal Corporation,
Arignar Anna Maaligai,
Thallakulam, Madurai.

2.The Principal Secretary,
The Government of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai-600 009.

3.The District Collector,
Madurai District,
Madurai.

4.The Tahsildar,
Thirupparankundram Taluk,
Madurai District.

+1cc to M/S.R.Subramanian, Advocate in SR.No.61139.

+1cc to M/S.R.Murali, Advocate in SR.No.61564.

+1cc to Special Government Pleader
Madurai Bench of Madras High Court,
Madurai in SR.No.61420.

Order made in
W.P.[MD].No.13183 of 2016
Dated: 18.10.2016

sml

msm/ck/20.10.16/p3/8c