



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE P.KALAIYARASAN

WEB COPY

W.P (MD) No.24835 of 2016

and

W.M.P (MD) No.17953 of 2016

M.Balasubramanian

.. Petitioner

Vs.

The Commissioner,
Madurai Corporation,
Madurai.

.. Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating to the impugned order passed by the respondent in his proceedings Ma.Thi.4/19503/15 dated 15.12.2016 and quash the same as illegal.

For Petitioner

: Mr.B.Saravanan

For Respondent

: Mr.B.Balarathina Kumar,
Standing Counsel.

ORDER

[Order of the Court was made by A.SELVAM, J.]

This writ petition has been filed under Article 226 of the Constitution of India praying to call for records relating to the notice dated 15.12.2016 passed in Ma.Thi.4/19503/15 by the respondent and quash the same by way of issuing a writ of certiorari.

2.It is averred in the petition that the petitioner is the owner of R.S.No.427/4, T.S.No.1, Ward No.93, Madurai Town. Further it is averred in the petition that the respondent without giving any show cause notice has directly issued the impugned eviction notice dated 15.12.2016 and the same has not been issued under relevant provision of law and further R.S.No.427/4 is the absolute property of the petitioner. Under the said circumstances, the present writ petition has been filed for getting the relief sought therein.

3.The learned counsel appearing for the petitioner has contended that by virtue of sale deed dated 13.06.2008, the petitioner has purchased the disputed property and its adjoining property and in R.S.No.427/4, the Corporation is not having any



right, title and interest, but the respondent without considering the title of the petitioner has erroneously given the impugned notice and therefore the same is liable to be quashed.

4.Mr.Balarathina Kumar, learned Standing Counsel, has taken notice for the respondent.

5.The only question that has to be decided in the present writ petition is as to whether the notice dated 15.12.2016 given by the respondent to the petitioner is liable to be quashed?

6.It is seen from the records that the petitioner has purchased a portion of the property comprised in R.S.No.427/4 (T.S.No.1). Even in the impugned notice, the said R.S.Number has been mentioned. As rightly pointed out on the side of the petitioner, in the impugned notice the petitioner has been directed to remove encroachment within a period of seven days. Therefore it goes without saying that without giving sufficient opportunity to putforth the contention on the part of the petitioner, the respondent has erroneously issued the impugned notice.

7.Considering the fact that the petitioner has purchased a portion of the property in R.S.No.427/1 (T.S.No.1) and also considering that without giving adequate opportunity to the petitioner, the impugned notice has been issued, this Court is of the view to quash the same.

8.In fine, this writ petition is allowed without costs and the notice dated 15.12.2016 issued by the respondent in Ma.Thi.4/19503/15 is quashed. However the respondent is at liberty to issue a show cause notice to the petitioner with regard to R.S.No.427/4 (T.S.No.1) and give him sufficient opportunity to putforth his contention and proceed further. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub-Assistant Registrar

To

The Commissioner, Madurai Corporation, Madurai.

+One cc to Mr.B.Saravanan, Advocate, SR.No.83455

+One cc to Mr.B.BalaRathinakumar, Advocate, SR.No.83393

smn

RL/4C/2P/EM/SARI/23.12.2016

ORDER MADE IN

W.P(MD)No.24835 of 2016

and

W.M.P(MD)No.17953 of 2016