

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:14.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

WP No.32518/2017 & WMP.No.35846 & 35847/2017

Mr.J.Karthik

..

Petitioner

Vs

1.The Collectorate
Kancheepuram District,
Kancheepuram.

2.The Tahsildar
Pallavaram Tahsildar Office
Chrompet, Chennai 600 044.

3.The Junior Engineer
Public Works Department
Irrigation Section
Water Resources Organization
Padappai 601 301.

4.The Commissioner
Pallavaram Municipality
Pallavaram, Chennai.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari calling for the records from the 3rd respondent by impugned notice in SN.No.27 dated 07.12.2017 Form No.III and quash the same.

For petitioner : Mr.M.Selvam
For R1 to 3 : Mr.M.Digvijaya Pandian, AGP
For R4 : Mr.A.P.Srinivas

ORDER

[Order of the Court was delivered by M.SATHYANARAYANAN, J.]

By consent, the writ petition is taken up for final disposal. Mr.M.Digvijaya Pandian, learned Additional Government Pleader accepts notice on behalf of the respondents 1 to 3 and Mr.A.P.Srinivas, learned standing counsel accepts notice on behalf of the 4th respondent.

2 The petitioner in the affidavit filed in the support of this affidavit would aver among other things that the landed property admeasuring to extent of 1196 sq.ft., in Survey No.446/2 along with the superstructure bearing Door No.18, 2nd Cross Street, Lakshmi Nagar, Zamin Pallavaram, Tambaram Taluk, Kancheepuram District, originally belonged to his mother Tmt.J.Suguna and she was also issued with the Possession Certificate by the 2nd respondent in O.Mu.No.1579/1997 dated 15.07.1997 wherein it has been stated that the land is classified as "Gramanatham" [village site]. The parents of the petitioner had jointly put up a superstructure on the said land and the 2nd respondent

has also issued SLR Patta dated 15.04.2001 and that it is also subjected to statutory levies. However, to the shock and surprise of the petitioner, the 3rd respondent has issued the impugned notice dated 07.12.2017 under the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 and the Rules framed thereunder, calling upon the petitioner to remove the encroachment to an extent of 300 sq.ft., in SF.No.448/5 of the said village. The petitioner, immediately submitted an application dated 08.12.2017 to the 2nd respondent, praying for Survey and Measurement of the land in his possession and apprehending dispossession at the hands of the 3rd respondent, came forward to file the present writ petition.

3 Mr.M.Selvam, learned counsel for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that as per the revenue documents, the petitioner is in possession of the land admeasuring to an extent of 1196 sq.ft., in S.No.446/2 of Zamin Pallavaram village and whereas, the impugned notice refers to SF.No.448/5 and the 3rd respondent has formed the opinion that the petitioner is in possession of the said land which is classified as Water Body and it came to be issued without due and

proper application of mind on the relevant records and prays for appropriate orders.

4 The Court heard the submissions of Mr.M.Digvijaya Pandian, learned Additional Government Pleader appearing for the respondents 1 to 3 and Mr.A.P.Srinivas, learned Standing counsel appearing for the 4th respondent and perused the materials placed before it.

4 The documents annexed in the typed set of documents filed in support of this writ petition would *prima facie* disclose that the petitioner is in possession of the land admeasuring to an extent of 1196 sq.ft., in Survey No.446/2 of Zamin Pallavaram village and whereas the impugned notice issued by the 3rd respondent refers to the land admeasuring to an extent of 300 sq.ft., in S.F.No.448/5 of the same village.

WEB COPY

5 This Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, permits the petitioner to submit his response to the impugned notice dated 07.12.2017 by enclosing the relevant and

authenticated documents within a period of four weeks from the date of receipt of a copy of this order to the 3rd respondent and upon receipt of the same, the 3rd respondent is directed to provide an opportunity of personal hearing to the petitioner and thereafter, consider and dispose of the said representation on merits and in accordance with law within a further period of six weeks thereafter and communicate the decision taken, to the petitioner. It is made clear that the 3rd respondent, till the disposal of the representation to be submitted by the petitioner, shall defer further decision in terms of the impugned notice dated 07.12.2017. It is also made clear that the petitioner, till the disposal of the representation by the 3rd respondent, shall not create any third party rights in respect of the land and superstructure in question and shall also not alter the physical features of the same.

6 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

[M.S.N.,J] [S.P.I., J]
14.12.2017

Internet : Yes

AP

M.SATHYANARAYANAN.,J.,
and
SATRUGHANA PUJAHARI.,J.,

AP

To

- 1.The Collectorate
Kancheepuram District,
Kancheepuram.
- 2.The Tahsildar
Pallavaram Tahsildar Office
Chrompet, Chennai 600 044.
- 3.The Junior Engineer
Public Works Department
Irrigation Section
Water Resources Organization
Padappai 601 301.
- 4.The Commissioner
Pallavaram Municipality
Pallavaram, Chennai.



WP No.32518/2017

WEB COPY

14.12.2017