



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.10584 of 2014
and M.P (MD) Nos.1 & 2 of 2014

Sethuraman .. Petitioner
Vs.

1.The District Collector,
Collectorate,
Trichy - 620 001.

2.The Commissioner,
Trichy City Corporation,
Trichy - 620 001.

3.The Assistant Commissioner,
Trichy City Corporation,
Ariyamangalam Zone,
Trichy.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records comprised in Na.Ka.7095/2013/F1, dated 19.06.2014 issued by the third respondent and quash the same as being arbitrary, illegal and contrary to the principles of natural justice and consequently direct the respondents to refrain from taking any action except in conformity with the orders in O.S.Nos.365 of 2012 and 163 of 2014 on the file of the First Additional District Munsif, Trichy.

For Petitioner	: Mr.K.Prabhakar
For RR 1 & 3	: Mr.T.S.Mohammed Mohideen, Additional Government Pleader.
For R - 2	: Mr.J.Parekh Kumar

ORDER

[Order of the Court was made by **G.R.SWAMINATHAN, J.**]

The petitioner questions the notice, dated 19.06.2014 issued by the third respondent herein.

2.The writ petitioner's primary contention is that there are prior rounds of litigation and that this Court while disposing of Contempt Petition(MD)No.312 of 2012, specifically observed that



based on the outcome of the civil suits, encroachment could be removed.

3. According to the learned counsel for the petitioner, civil suits filed by the petitioner, namely O.S.Nos.365 of 2012 and 163 of 2014 on the file of the First Additional District Munsif, Trichirappalli, are still pending. Therefore, he seeks to restrain the authorities from taking any action, except in conformity with the outcome of the suits in O.S.Nos.365 of 2012 and 163 of 2014 on the file of the First Additional District Munsif, Trichirappalli. He would also contend that the order, dated 19.06.2014 calling upon the writ petitioner to remove the encroachment in question has been passed straightaway and that it was not preceded by prior show-cause notice. We therefore, set aside the impugned order, dated 19.06.2014 issued by the third respondent herein. The matter is remitted back to the file of the second respondent. The second respondent shall survey the land in question and identify the encroachment. If the site so identified as a result of the survey is covered by suit schedule in O.S.Nos.365 of 2012 and 163 of 2014, on the file of the First Additional District Munsif, Trichy, the respondents 2 and 3 shall abide by the outcome of the said suits. If site so identified does not tally with the suit schedule, appropriate action shall be taken for removing the encroachment as per law.

4. The Writ Petition is allowed with the above indication. No costs. The learned First Additional District Munsif, Trichy, is directed to expedite the disposal of the suits in O.S.Nos.365 of 2012 and 163 of 2014, in any case, dispose of the suits within a period of four months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD-II)

/True copy/

Sub Assistant Registrar

To

1. The District Collector,
Collectorate,
Trichy - 620 001.

2. The Commissioner,
Trichy City Corporation,
Trichy - 620 001.

3. The Assistant Commissioner,
Trichy City Corporation,
Ariyamangalam Zone,
Trichy.



4.The Ist Additional District Munsif,
Trichy.

W.P. No. 10584 of 2014
+1cc to Mr.P.Srinivas, Advocate, SR.67566

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