



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2017

CORAM:

**THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**

W.P. (MD) No.18733 of 2017
and
W.M.P (MD) No.15109 of 2017

Sundarapandian (M 49/17)
S/o.Chinniah,
Palakurichi Village,
Marungapuri Taluk,
Trichy District.

: Petitioner

.vs.

1. The District Collector,
Office of the District Collector,
Trichy District,
Trichy.
2. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Srirengam Taluk, Vannanthurai,
Trichy District.
3. The Tahsildar,
Marungapuri Taluk,
Trichy District.
4. The Special Officer/Block Development Officer,
Palakurichi Panchayat,
Marungapuri Taluk,
Trichy District.

5. D.Manickam.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Certiorari calling for the records pertaining to the impugned notice passed by the Fourth Respondent in his proceedings vide Na.Ka.No.Aa2/3388/2017, dated 18.09.2017 and to quash the same as illegal.



For Petitioner : M/s.A.Chandrakumar
For Respondents : Mr.T.R.Janarthanan
1 to 3 Additional Govt.Pleader
For Respondent-4 : Mr.M.Murugan
For Respondent-5 : Mr.C.Jegannathan
for M/s.Veera Associates

O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

This Writ Petition has been filed seeking issuance of a Writ of Certiorari calling for the records pertaining to the impugned notice passed by the Fourth Respondent in his proceedings vide Na.Ka.No.Aa2/3388/2017, dated 18.09.2017 and to quash the same as illegal.

2.Heard both sides.

3.By consent, the main Writ Petition itself is taken up for final disposal.

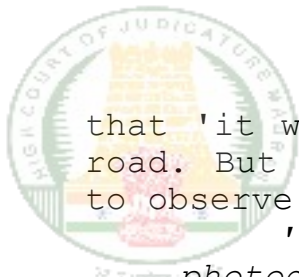
4.According to the Petitioner, he is the hereditary Trustee of Arulmighu Bhagavathi Amman Temple situated at Palakurichi Village. In the year 2012, the villagers and Panchayat Board President had commonly decided and passed a Panchayat Resolution to conduct the weekly market around the temple in Village S.F.No.434/1 and 24.

5.It is reported that during the course of time, the Fifth Respondent and the adjacent land owners belonging to another community, created Law and Order Problem to prevent conducting of weekly market and also claimed common pathway to access to the public road. Under such circumstances, the Fifth Respondent in the present Writ Petition, on earlier occasion, projected W.P(MD)No.646 of 2013 and this Court, on 10.1.2013, at paragraph 4 had observed the following:

''4.Considering the submissions made by the learned counsel appearing on either side, this Court directs the respondents 1 and 2 to consider the representation of the Petitioner, dated 6.12.2012 and pass appropriate orders on merits within a period of four weeks from the date of receipt of a copy of this order, by affording an opportunity to all the necessary parties.''

and disposed of the Writ Petition.

6.At this juncture, the Learned Counsel for the Fifth Respondent brings it to the notice of this Court that in W.P(MD). No.11969 of 2013 filed by the present Fifth Respondent, as Writ Petitioner, this Court on 28.8.2017, at paragraph 2 had observed



that 'it was seen that the land in question has been classified as road. But weekly market is being conducted therein' and proceeded to observe at paragraph 3 and 4 as under:

'3.Learned counsel for the Petitioner produced photographs to show that certain fencing arrangements have been made limiting the access of the other villagers. Since survey No.434/24 of Palakurichi Village is admittedly a road, it is the duty of the authorities to remove the encroachment made therein.

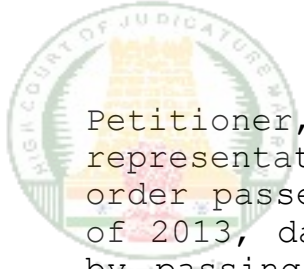
4.This Court is informed that the local Panchayat has passed a resolution for conducting the weekly market in another survey number. In any event encroachment of public road cannot be allowed. This Court therefore directs the tenth respondent to take appropriate steps in accordance with law to remove all the encroachments in Survey No.434/24 of Palakurichi Village after issuing notice to the alleged encroachers and complying with the due process of law. The entire exercise shall be completed within a period of two months from the date of receipt of a copy of this order.'

and allowed the Writ Petition.

7.Based on the aforesaid order dated 28.8.2017 in W.P(MD) No.11969 of 2013, the Fourth Respondent /The Special Officer, Block Development Officer, Palakurichi Panchayat, Marungapuri Taluk, Trichy District had issued an Intimation Notice, dated 18.9.2017 requiring the present Writ Petitioner(who figures in S.No.5 in the Intimation Letter) removed encroachments in S.No.434/24 in question, within 15 days, failing which, he was informed that the encroachment would be removed and existence thereto would be recovered from him. The said Intimation Letter /Notice of the Fourth Respondent, dated 18.09.2017 is challenged in the present Writ Petition.

8.In this connection, the Learned Counsel for the Petitioner brings it to the notice of this Court that the present Writ Petitioner had given a representation before the Fourth Respondent on 25.09.2017, inter-alia, stating that S.No.434/23 and 433/24 belongs to the Arulmighu Bhavathi Amman Temple and as such, the said land was to be measured. In fact, the Petitioner had addressed a copy of the representation dated 25.9.2017 to the First Respondent/District Collector, Tiruchirappalli and the Second Respondent/The Revenue Divisional Officer, Srirengam Taluk, Vnnnanthurai, Trichy District.

9.Inasmuch as the impugned Intimation Letter, dated 18.09.17 of the Fourth Respondent was addressed to the Writ Petitioner, this Court directs the Petitioner to treat the Intimation Letter, dated 18.9.2017 of the Fourth Respondent as show-cause notice and further he is directed to submit his objection/representation within a period of ten days from the date of receipt of a copy of this order. Soon after the receipt of the copy of objection/response of the



Petitioner, the Fourth Respondent is directed to dispose of the said representation of the Petitioner dated 25.09.2017, in the light of order passed by the Division Bench of this Court in W.P(MD)No.11969 of 2013, dated 28.8.2017, within a period of two weeks thereafter, by passing a reasoned speaking order on merits, in a fair, just, impartial, unbiased and dispassionate manner and that too, in qualitative and quantitative terms, after affording adequate opportunity to the Petitioner and others concerned, if any. It is open to the Petitioner to raise all factual and legal pleas before the Fourth Respondent, who shall advert to the same at the time of passing final orders in the subject- matter in issue.

10. With the above said observation(s) and direction(s), the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Office of the District Collector,
Trichy District, Trichy.
2. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Srirengam Taluk, Vannanthurai,
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3. The Tahsildar,
Marungapuri Taluk,
Trichy District.
4. The Special Officer/Block Development Officer,
Palakurichi Panchayat,
Marungapuri Taluk,
Trichy District.

- + 1 CC TO Mr.A.CHANDRAKUMAR, ADVOCATE IN SR No. 88964
- + 1 CC TO M/s.VEERA ASSOCIATES, IN SR No. 89175
- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 89247

VSN

TE/SV-MMS/SAR-2 : 08/12/2017 : 4P/8C

ORDER MADE IN
W.P. (MD) No.18733 of 2017 and
W.M.P (MD) No.15109 of 2017
23.11.2017