



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2017

CORAM:

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

W.P. (MD) No. 19512 of 2017

and

W.M.P. (MD) Nos. 15808 and 15809 of 2017

Solai

: Petitioner

-Vs-

The Tahsildar,
Devakottai Taluk,
Sivagangai District.

: Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the Respondent in Na.Ka.Aa.5/699/2016, dated 29.09.2017 and quash the same and consequently, forbear the Respondent from interfering with the peaceful possession and enjoyment of the Petitioner's property in S.No.282/1 situated at Thiruvegampathu Village, Devakottai Taluk.

For Petitioner	: Mr.J.Anandkumar
For Respondent	: Mr.M.Govindan, Special Government Pleader

O R D E R

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

Mr.M.Govindan, Learned Special Government Pleader, takes notice for the Respondent.

2. Heard both sides.

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

4. According to the Learned Counsel for the Petitioner, the Petitioner was directed to remove the encroachment as per the order passed by this Court in W.P.(MD)No.974 of 2017, dated 19.07.2017. He was further informed that if the encroachment is



not removed, then the Government would remove the encroachment and the expenses arising thereto will be paid by the Petitioner.

5. The main grievance of the Petitioner is that the impugned notice/Memorandum dated 29.09.2017 addressed to the Petitioner shows that the Petitioner has not been provided any opportunity to put forward his case. As such, there is negation of the principles of natural justice. Furthermore, it is represented on behalf of the Petitioner that this Court had passed orders in W.P.(MD)No.974 of 2017 on 19.07.2017 and only in terms of the aforesaid order passed in the Writ Petition, the Petitioner was directed to remove the encroachment voluntarily by himself before 05.10.2017 in Survey No.282/1, Natham Poramboke Pathway, situated at Thiruvegampathu Village.

6. At this stage of the hearing, the Learned Special Government Pleader appearing for the Respondents points out that the Petitioner may treat the memorandum of the Respondent/Tahsildar, Devakottai, dated 29.09.2017, as a show cause notice issued to him and for that, he can offer his explanation within the time to be stipulated by this Court.

7. In view of the above, this Court directs the Petitioner to treat the Memorandum of the Respondent/Tahsildar, Devakottai, dated 29.09.2017 as show cause notice and to offer his explanation, within two weeks from the date of receipt of copy of this order. Soon after the receipt of the explanation, the Respondent/Tahsildar, Devakottai shall look into the explanation of the Petitioner in all seriousness and earnestness and pass a reasoned speaking order on merits and in a fair, just, impartial, unbiased and dispassionate manner, within a period of four weeks thereafter, after adhering to the principles of natural justice. It is open to the Petitioner to raise all factual and legal pleas before the Respondent, who, at the time of passing the final orders in question, shall meet out the factual and legal pleas raised by the Petitioner and pass a reasoned order in a qualitative and quantitative manner. Till such time, it is abundantly made clear that the possession of the Petitioner in the subject matter of the property shall not be disturbed by the Respondent in any manner.

8. With the aforesaid observation(s)/direction(s), the Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl side)



To
The Tahsildar,
Devakottai Taluk,
Sivagangai District.

+ 1 CC TO MR.J.Anandkumar , ADVOCATE IN SR No.83251

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 83853

sml

MK/MR/SAR-2/02.11.2017/3P/4C

Order made in
W.P.(MD)No.19512 of 2017
Dated: 24.10.2017