

**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.19562 of 2017
and
W.M.P. (MD)Nos.15850 and 15851 of 2017

Krishnan

: Petitioner

-Vs-

The Block Development Officer,
Dindigul Panchayath Union,
Dindigul 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 Respondent made in Proceedings No.Na.Ka.No.3963/2003/U2, dated 28.09.2017 and to quash the same and to consequentially, direct the Respondents to refrain from demolishing the buildings, thatched houses and evicting the petitioner concerned from Survey No.624, Paraipatty Village, Periyakottai Panchayath without following the legal requirements of Law.

For Petitioner : Mr.S.Balakarthick
For Respondent : Mr.K.Guru,
Additional Government Pleader

O R D E R

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

Mr.K.Guru, Learned Additional 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 Petitioner, he and his family are residing in Survey No.624, Parraipatti Village, Periyakottai Panchayath,

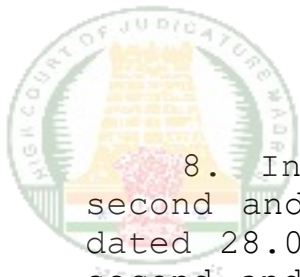


Dindigul East Taluk, for more than 40 years. Earlier, it was a thatched hut and now, he had constructed a pucca concrete house. Further, he is assessed to house tax and earlier, it was in the name of his father and now, after his demise, it is mutated in the name of his mother Palaniyammal. He is also paying the land revenue to the said property apart from house tax, electricity charges and water tax. Other persons have also constructed thatched houses. Water and electricity facilities are provided by the Panchayat. The specific case of the Petitioner is that the land in Survey No.624 is a Government poramboke land and classified as 'Vandi Pathai Poramboke' (cart track poramboke). The downtrodden people and landless poor people alike had occupied the lands some 40 years before and since then, they are in possession and enjoyment and various other persons besides him had constructed houses. As a matter of fact, the Panchayat Board also provided water connection and street lights. By means of Resolution dated 03.04.2000, the Panchayat Board had ratified the possession. The Learned Counsel for the Petitioner points out that since the Government of Tamil Nadu had issued G.O.(Ms)No.854, Revenue, dated 30.12.2006, to regularize the encroachment in Government Poramboke lands as dwelling houses for more than ten years, by issuing house site patta, by a Committee headed by the District Collector, if the lands are not required for Government purposes, the Petitioner applied to the District Collector and the Panchayat President for issuance of assignment patta for the lands in Survey No.624, but the same is still pending.

5. When that be the factual position, the Respondent had served a memo dated 19.09.2017 to the Petitioner, whereby, he was peremptorily directed to remove the encroachment made in Survey No.624 on or before 25.09.2017 and on his failure to do the same, it will be removed with the help of Revenue officials.

6. It comes to be known that the Petitioner had approached the Respondent and submitted his preliminary objections and at this juncture, the Learned Counsel for the Petitioner points out that the Petitioner made a request to furnish copies of judgment and decree in O.S.No. 33 of 2000 and E.P.No.60 of 2007 because of the reason, he is not a party to the said proceedings.

7. This Court has perused the second and final notice dated 28.09.2017 issued by the Block Development Officer, Dindigul Panchayat Union, Dindigul District, addressed to the Petitioner, in and by which, it was made mention of that the Petitioner as an encroacher had refused to receive the notice and, therefore, it was affixed in the presence of Village Administrative Officer. That apart, in the reference column of the aforesaid second and final notice dated 28.09.2017, in Reference No.1, there is a mention of O.S.No.33 of 2000 on the file of Learned District ~~Memoes in Courts of Dindigul~~ and the order passed in E.P.No.60 of 2007, dated 19.09.2017. In Reference No.2, the first memo dated 19.09.2017 was made mention of.



8. Inasmuch as the Petitioner had refused to receive the second and final notice as per averment made in the said notice dated 28.09.2017, this Court directs the Petitioner to treat the second and final notice as a show cause notice and to submit his explanation within a period of ten days from the date of receipt of copy of this order. Thereafter, the Respondent is directed to pass a speaking final order on merits, adverting to both factual and legal issues, if any, raised by the Petitioner in his explanation, of course, after providing necessary opportunity in the manner known to law and in accordance with law, within a period of three weeks. Till such time, the Respondent is directed to maintain status quo in respect of the property which the petitioner is in possession.

9. 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)

/True Copy/

Sub Assistant Registrar

To

The Block Development Officer,
Dindigul Panchayath Union,
Dindigul District.

+1cc to M/S.S.BALAKARTHICK, Advocate SR.No.83453.

Order made in
W.P. (MD) No.19562 of 2017
24.10.2017

SML

SDS/RSK/SAR 1/01.11.2017/3P/3C