

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 26.10.2017

CORAM:

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

**W.P. (MD) No.19722 of 2017
and
W.M.P. (MD) No.16001 of 2017**

M.Palanichamy

: Petitioner

-Vs-

1. The District Collector,
Sivagangai District, Sivagangai.

2. The Tahsildar,
Thiruppathur Taluk,
Sivagangai District.

3. The Regional Deputy Tahsildar,
Thiruppathur Taluk, Thiruppathur,
Sivagangai District.

4. Nagarajan
[R-4 - given up as per endorsement made
by the Petitioner dated 26.10.2017 in the present
Writ Petition]

: Respondents

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 eviction notice dated 08.09.2017, but issued on 12.10.2017 by the third Respondent, quash the same and further, directing the Respondents 1 to 3 to issue patta to the Petitioner in respect of the land comprised in Survey No.112/1, situate at Door No.761, Salaipatti 2nd Ward, Mahibalanpatti & Post, Thiruppathur Taluk, Sivagangai District, admeasuring 00.10 Hectares.

For Petitioner : Mr.S.Ramu

For Respondents 1to3 : Mr.M.Govindan,

<https://hcservices.ecourts.gov.in/hcservices/>

Special Government Pleader

For Respondent No.4 : Given up

**O R D E R**

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

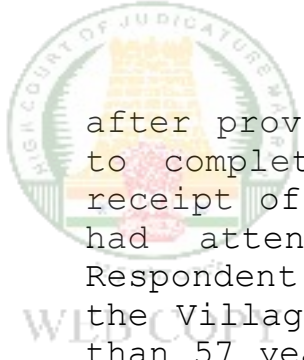
Mr.M.Govindan, Learned Special Government Pleader, takes notice for the Respondents 1 to 3.

2. Heard both sides.

3. According to the Petitioner, he is residing with his family for the past 55 years right from his childhood in the address at Door No.761, Salaipatti 2nd Ward, Mahibalanpatti Post, Thiruppathur Taluk, Sivagangai District. As a matter of fact, Mahibalanpatti Panchayat is assessing and levying tax from him for all these years for the tiled house constructed by him in 'Kalam Poramboke'. Separate electricity connection was given in his name. In Government Records, like Family Card and Aadhar Card, his address was entered and it appears that many other individuals had also constructed houses in the said Kalam Poramboke and residing for more than 50 years. They made representations before the first and second Respondents from 2010 onwards, requesting to regularize their occupation and to issue patta for the land in their possession.

4. At this stage, the Learned Counsel for the Petitioner submits that the Respondents 1 and 2 had considered the request as recommended by Mahibalanpatti Panchayat Council's Resolution and regularized their possession and started to issue patta to all others, except the petitioner and his brother, because the fourth Respondent had made an objection for issuance of patta to and in his favour and his brother by making false allegations that they are Landlords and their occupation of the land is disturbance to the public. Apart from that, the Petitioner had made representations before the Revenue Divisional Officer and the first Respondent/District Collector, Sivagangai District. Both of them had directed the second Respondent/Tahsildar, Thiruppathur Taluk, to enquire into the matter and submit a report as per their proceedings dated 04.09.2012 and 23.05.2013 respectively.

5. It comes to be known that when enquiry is pending, the fourth Respondent (later on given up by the Petitioner in the present Writ Petition) had filed a Public Interest Litigation in W.P.(MD)No.13993 of 2013 for a direction against the second Respondent herein to implement the aforesaid proceedings of the Revenue Divisional Officer and District Collector of Sivagangai. The said Writ Petition came to be disposed of by this Court on 05.07.2017, wherein a direction was issued to the second Respondent herein to consider the representation made by the fourth Respondent and to pass appropriate orders according to law,

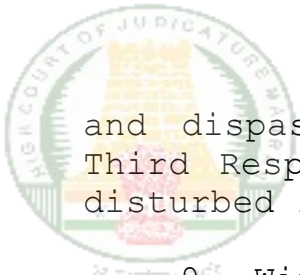


after providing opportunity to the Petitioner and his brother and to complete the process, within four months from the date of receipt of copy of the said order. The Petitioner and his brother had attended the enquiry on 15.09.2017 before the second Respondent and furnished all documents including the statement of the Village people stating that they are residing there for more than 57 years and there is no disturbance from them to the public, in order to falsify the allegation of the fourth Respondent. The second Respondent had adjourned the enquiry without intimating any further date.

6. When that be the fact situation, it transpires that the third Respondent had issued a notice on 12.10.2017 to the Petitioner purported to be under Section 7 of the Tamil Nad Land Encroachment Act, 1905, directing the Petitioner to vacate the premises and if failure to do so, he will be evicted forcibly and all his belongings will be forfeited. Hence, the Petitioner has filed the present Writ Petition questioning the issuance of notice dated 08.09.2017, issued on 12.10.2017 by the third Respondent.

7. At this juncture, the Learned Special Government Pleader appearing for the Respondents 1 to 3 brings it to the notice of this Court that an explanation dated 13.10.2017 was submitted by the Petitioner addressed to the third Respondent, wherein he had inter alia mentioned that he was recommended for issuance of patta by Mahibalanpatti Panchayat Council, by means of a Resolution and as such, he is not liable to be evicted from the property in question.

8. Admittedly, as on date, the enquiry in regard to the issuance of notice dated 08.09.2017 is pending and the same is not yet disposed of. Even though a plea is taken on behalf of the Petitioner that it is not a show cause notice, yet, after going through the impugned notice dated 08.09.2017 (issued on 12.10.2017), this Court directs the Petitioner to treat the said notice as a show cause notice and taking note of yet another prime fact that the Petitioner had submitted his explanation and the same is pending consideration in the hands of third Respondent, this Court, without expressing any opinion on the merits of the matter, simpliciter, directs the third Respondent to look into the explanation of the Petitioner dated 13.10.2017 and dispose of the matter, within a period of three weeks from the date of receipt of copy of this order by passing a reasoned speaking order on merits, of course, by providing necessary opportunity to the Petitioner and others concerned, including one Nagarajan, who was originally arrayed as Respondent No.4 and given up in the present Writ Petition (the Petitioner in W.P. (MD) No.13993 of 2013). Liberty is granted to the Petitioner to raise all Factual and Legal pleas before the third Respondent, who shall, at the time of passing the final orders in question, advert to the every Factual/Legal plea and deal with the same in a free, fair, just, impartial, unbiased



and dispassionate manner. Till final orders are passed by the Third Respondent, the possession of the Petitioner shall not be disturbed in any manner.

9. With the aforesaid observation(s)/direction(s), the Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Sivagangai District,
Sivagangai.
2. The Tahsildar,
Thiruppathur Taluk,
Sivagangai District.
3. The Regional Deputy Tahsildar,
Thiruppathur Taluk,
Thiruppathur,
Sivagangai District.

+1cc to M/S.S.RAMU, Advocate SR.No.83715.

Order made in
W.P. (MD) No.19722 of 2017
26.10.2017
(2/2)

SML
SDS/SV:MMS/SAR 2/26.10.2017/4P/5C