



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.19730 of 2017
and
W.M.P. (MD) No.16002 of 2017

P.Rajangam : Petitioner

-Vs-

1.The Zonal Deputy Tahsildar,
Singampunari,
Sivagangai District.

2.A.Lakshmanan

3.D.Karthick

[R-2 and R-3 - 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
Certiorari, to call for the records relating to the impugned order
of the Respondent Na.Ka.No.A3/1431/17, dated 12.09.2017 and quash
the same.

For Petitioner : Mr.S.Srinivasa Raghavan
For Respondent No.1 : Mr.T.R.Janarthanan,
Additional Government Pleader
For Respondent Nos.2&3 : Given up

O R D E R

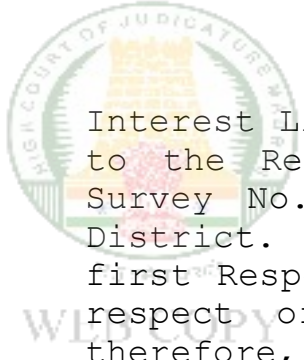
[Order of the Court was made by M.VENUGOPAL, J.]

Mr.T.R.Janarthanan, Learned Additional Government Pleader,
takes notice for the first Respondent.

2. Heard both sides.

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

3. According to the Petitioner, he filed, on an earlier
occasion, a Writ Petition in W.P.(MD)No.2355 of 2017 as Public

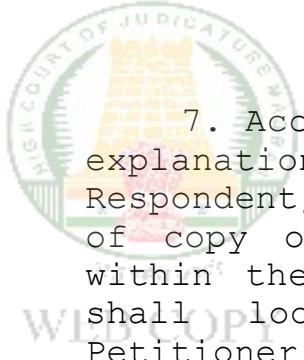


Interest Litigation seeking for issuance of direction being issued to the Respondents therein to remove the encroachment made in Survey No.217/2, Vellaipayan Oorani in Singampunari, Sivagangai District. The version of the Petitioner is that on behalf of the first Respondent therein, it was represented that 'A' Register in respect of Survey No.217/2 shows the same as 'Oorani' and, therefore, a direction for eviction of encroachment was ordered as per law on 13.02.2017.

4. It transpires that when the eviction process was taken by the Respondents therein, the encroachers, by name A.Lakshmanan and D.Karthick (originally shown as R-2 and R-3 and later, given up in the present Writ Petition) filed W.P.(MD)Nos.12443 and 12444 of 2017 challenging the eviction notice and this Court had set aside the said notice and further, directed the authorities to pass final orders in the eviction process. In the said Writ Petitions, the encroachers as referred to supra had alleged as if the present Writ Petitioner had put up a Vinayagar Temple with Madappalli in the same Survey Number and, therefore, the said Temple also ought to be removed from Survey No.217/2. On the basis of the said contentions, it appears that the first Respondent had passed the impugned order dated 12.09.2017 without proper notice or enquiry or finding out the truth, directing the Petitioner to remove the Temple within 15 days, failing which, the same will be demolished without any notice to him. The plea taken on behalf of the Petitioner is that the Temple in question does not belong to him, but, it is a Village Temple. Further, the Petitioner is only a worshipper of the Temple regularly visiting the Temple for worship and assisting the administration of the Temple. In short, the Petitioner comes out with a plea that the impugned notice dated 12.09.2017 is a baseless one and the same is issued without application of mind and also not following due process of law.

5. At this stage, this Court had perused the notice issued by the first Respondent/Zonal Deputy Tahsildar, Singampunari, Sivagangai District, dated 12.09.2017 (issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905). In the Schedule of the said notice, it is evident that the enjoyment of the property is mentioned as 'Vinayagar Temple and Madappalli' in respect of Survey No.217/2, Kirungakkottai Village, Vellaipayan Oorani, measuring an extent of 1.21.00 Hectares.

6. Admittedly, the Petitioner has not submitted his explanation to the notice dated 12.09.2017 issued by the first Respondent. In this connection, the Learned Counsel for the Petitioner submitted that the Petitioner would submit his explanation/objections/remarks, within a period of two weeks and necessary time may be granted by this Court to the first Respondent to consider the same. This request of the Petitioner's side appears to be quite reasonable one.



7. Accordingly, this Court directs the Petitioner to offer his explanation for the notice dated 12.09.2017 of the first Respondent, within a period of two weeks from the date of receipt of copy of this order. Soon after the receipt of explanation within the time adumbrated by this Court, the first Respondent shall look into the remarks/objections/explanation of the Petitioner in a threadbare, just, fair fashion and also in a dispassionate manner and pass a reasoned speaking order on merits, within a period of four weeks thereafter, of course, after providing necessary opportunity to the Petitioner and others concerned with the subject matter in issue. It cannot be gainsaid that it is open to the Petitioner to raise all Factual and Legal pleas before the first Respondent, who, in turn, shall advert to the pleas raised by the Petitioner and pass the orders in question in a qualitative and quantitative fashion. Till then, it is abundantly made clear that the possession of the Petitioner from the property in question shall not be disturbed by the first Respondent in any manner.

8. 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(Crl.Side)

/True Copy/

Sub Assistant Registrar.

To
The Zonal Deputy Tahsildar,
Singampunari,
Sivagangai District.

+1CC to Mr.S.Srinivasa Raghavan, Advocate, SR.No.84035
+1CC to the Special Government Pleader SR.No.83859

Order made in
W.P.(MD)No.19730 of 2017
Dated: 26.10.2017

SML
AM/MR KKR/SAR 1/06.11.2017/3P/4C