



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 01.11.2017
CORAM:

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

W.P. (MD) No.20111 of 2017

and

W.M.P (MD) No.16406 of 2017

J.S.Sellian : Petitioner

.vs.

1. The District Collector,
Thanjavur District,
Thanjavur.

2. The Revenue Divisional Officer,
Thanjavur.

3. The Tahsildar,
Thanjavur.

: 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 notice issued by the third respondent, dated 24.10.2017 and to quash the same as illegal.

For Petitioner : M/s.T.A.Ebenezer
For Respondents : Mr.T.R.Janarthanan
Additional Govt.Pleader

O R D E R

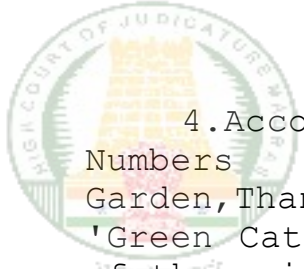
[Order of the Court was made by **M.VENUGOPAL, J.**]

This Writ Petition has been filed seeking issuance of a Writ of Certiorari calling for the records pertaining to the notice issued by the third respondent, dated 24.10.2017 and to quash the same as illegal.

2.Heard both sides. No counter is filed on behalf of the respondents.

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

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



4. According to the Petitioner, in the properties in Plot Numbers 4,5,6 and 7 in S.No.72/7A, Neelagiri South Garden, Thanjavur Taluk, he is running a Catering College by name 'Green Catering College' after making arrangements with the owner of the said land Late. Saleem and with his wife Selvi. In fact, the Petitioner had improved the said land by constructing a college and residential buildings and he is in exclusive enjoyment of the property.

5. It comes to be known that the property was an Estate Village during the period of British Rule and after Independence. The said properties belong to the Kings ruled from the Thanjavur Fort. In order to recover the land from the said Kings, it appears that a suit in O.S.No.44 of 1932 was filed on the file of the learned Sub-Judge, Madurai and as per the decree, the properties were subjected to auction. In fact, one M/s. Murugappa Sons and CRM, MLA Firm of Rangoon took the properties in auction and got Assignee Decree and secure possession. Subsequently, the possessory right was given to one Venkadasala Arsuthiar by way of registered deed and thereafter, sold the same to one Kuzhanthaisami Pandithar by way of registered sale deed on 14.9.1957. Later, the legal heirs of the said Pandithar sold 1 acre and 33 1/3 cents, out of 10 acres and 22 cents in S.No.72, to one Ramasamy by means of registered sale deed, dated 5.5.1971. The said Ramasamy sold his property to one Pasupathy Ammal on 7.3.1981. The said Pasupathi Ammal divided the land into plots and sold the plots to many people. Indeed, Plot No.4,5,6 and 7 were purchased by Saleem and his wife Selvi through registered sale deed.

6. In the year 2005, the Petitioner came to know that his land was about to be allotted to Police use and they are about to be vacated from the land. As Power Agent of the said Saleem and the vendor of his wife/Selvi, one Padmaja Joseph filed suits in O.S.Nos.67 and 71 of 2005 for declaration and permanent injunction against the respondents. The said suits were decreed in his favour after trial and declaration and permanent injunction was granted in his favour by means of decree, dated 10.4.2006.

7. After the Estate Abolition (Conversion into Ryotwari) Act, 1948, as on date, an enquiry was conducted by the Settlement Officer in each and every village and patta was issued as per their possession. Since at the time of enquiry, the possessors failed to attend, the properties were classified as 'Anatheenam' which means unclaimed properties. However, the said properties do not belong to Government at any point of time. At the same time, it is the plea of the Petitioner that the owner of the lands are entitled to establish their title before the competent Court and obtain patta. On that basis, the Petitioner filed Civil Suits and obtained decrees against the respondents 11 years before. But till date, the Government had not filed any appeal and

therefore the decrees have become final.

8.The submission of the Petitioner is that to his shock and surprise, the Second Respondent suppressing the necessary facts, had issued a show-cause notice, dated 24.10.2017 under section 7 of the Tamil Nadu Land Encroachment Act, 1905 to him as to why he should not be evicted from the property in question and further he was directed to explain the before 31.10.2017 about his possession.

9.The Learned Counsel for the Petitioner projects an argument that without considering the objection of the Petitioner, dated 27.10.2017 for the impugned notice, dated 24.10.2017, the Petitioner states that he will be evicted from the property in question.

10.Admittedly, the explanation submitted by the Petitioner dated 27.10.2017 for the impugned notice, dated 24.10.2017 is pending consideration in the hands of the Third Respondent. Till date, no final orders have been passed by the Third Respondent, pursuant to the issuance of impugned notice, dated 24.10.2017. As such, the matter is vide open and it has not reached its finality between the parties.

11.Be that as it may, this Court, without traversing upon the merits and demerits of the objection projected by the Petitioner dated 27.10.2017 for the impugned show-cause notice, dated 24.10.2017, at this stage, without also dwelling deep into the subject-matter in issue, at this stage, simpliciter directs the Third Respondent to look into the objection of the Petitioner, dated 27.10.2017 and if the Third Respondent finds any substance in the content(s) and merit(s) of the representation/objection so made by the Petitioner, then opportunity be provided to the Petitioner to raise all factual and legal pleas before him, of course, in the manner known to Law and in accordance with Law and thereafter, to pass a reasoned speaking order on merits within a period of six weeks from the date of receipt of a copy of this order. Till final orders are passed by the Third Respondent in the subject-matter in issue, the Petitioner shall not be disturbed of his possession of the property in question in any manner by anyone, whatsoever.

12.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 (AE)



To

1. The District Collector,
Thanjavur District,
Thanjavur.

2. The Revenue Divisional Officer,
Thanjavur.

3. The Tahsildar,
Thanjavur.

+ 1 CC TO MR.T.A.Ebenezer, ADVOCATE IN SR No.84695
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No.84819
vsn
MK/KK/SAR-1/13.11.2017/4P/6C

ORDER MADE IN
W.P. (MD) No.20111 of 2017
and
W.M.P (MD) No.16406 of 2017
01.11.2017