



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

AND

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD) No.20431 of 2017

and

W.M.P. (MD) No.16701 of 2017

W.M.P. (MD) No.16700 of 2017

P.Sekar

: Petitioner

-Vs-

1. The District Collector,
Theni District,
Collectorate Campus,
Theni.

2. The Tahsildar,
Theni Taluk Office,
Theni Post & District.

3. The Estate Officer,
Southern Railway,
Divisional Office,
Works Branch,
Madurai.

4. The Inspector of Police,
Railway Protection Force,
Madurai Railway Station,
Madurai.

5. The Inspector of Police,
Theni Town Police Station,
Theni Post & District.

: 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 in pursuant to the impugned warning notice issued by the third Respondent in proceedings dated 05.10.2017 and quash the same and consequently direct the Respondents 1 and 2 to survey and fix the boundary line of lands situated in the combined S.Nos.238/2 and 239/1, 239/2 Alli Nagaram Village, Theni Taluk and District.

For Petitioner

: Mr.M.Saravanakumar

For Respondents 1,2,4 & 5

: Mr.M.Govindan,

Special Government Pleader

For Respondent No.3

: Mr.A.Haja Mohideen

**ORDER**

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

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The Petitioner has come forward with the present Writ Petition seeking for the issuance of a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned warning notice issued by the third Respondent in proceedings dated 05.10.2017, quash the same and consequently, direct the Respondents 1 and 2 to survey and fix the boundary line of lands situated in the combined S.Nos.238/2 and 239/1, 239/2 Alli Nagaram Village, Theni Taluk and District.

2. Heard both sides.

3. The Learned Counsel for the Petitioner fairly submits that the Petitioner will give a reply before the third Respondent/Estate Officer, Southern Railway, Divisional Office, Works Branch, Madurai, for the Warning Notice dated 05.10.2017, within a period of two weeks, raising all factual and legal pleas for arriving at a proper decision in the subject matter in issue.

4. According to the Petitioner, the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, is applicable only to a person who has unauthorizedly occupied the Government land without any prior permission of the Estate Officer. But, in the instant case, it is the version of the Petitioner that he had purchased the house site vacant land from the original land owners and in fact, the land was purchased for a valid consideration by means of Document No.739/1920 and the purchasers' names were entered in the revenue records.

5. It is averred in the Petition that the Petitioner and other residents made a request with the first Respondent on 30.10.2017 to save their livelihood. The Petitioner claims that the present house is the only source for his livelihood and for the past 25 years, he is in peaceful possession and the same is established by him on production of property tax and revenue records and more particularly, Patta and Chitta Adangal. Therefore, it is contended on behalf of the Petitioner that the proceedings of the third Respondent dated 05.10.2017 is liable to be quashed, in the interest of justice.

6. Per contra, it is the submission of the Learned Counsel for the third Respondent that the third Respondent had only issued a Warning Notice in respect of railway land to the encroachers at RM. 72/000 to 73/000 set Theni and Bodinayakanoor Stations. The occupants were warned to remove the huts/buildings in railway land



on or before 20.10.2017, otherwise, the existing huts/buildings would be removed by JCB on 25.10.2017 with the help of Railway Protection Force/Madurai and State Police Protection Force/Theni.

7. Considering the fact that the Petitioner is ready and willing to submit his written representation before the third Respondent to raise his objections/putforward his views/remarks in the subject matter in issue, this Court, without delving deep into the merits of the matter and also not expressing any opinion one way or the other, in the interest of justice, simpliciter, directs the Petitioner to submit his representation before the third Respondent, within a period of two weeks from the date of receipt of copy of this order. Soon after the receipt of representation, the third Respondent/Estate Officer, is directed to look into the representation of the Petitioner and pass a detailed speaking order on merits, within a period of four weeks thereafter, of course, after providing due opportunity to the Petitioner and others concerned and after adhering to the Principles of Natural Justice. It is open to the Petitioner to raise all factual and legal pleas (including the furnishing of necessary documents to prove his title, if any) before the Third Respondent. Till final orders are passed by the third Respondent, it is abundantly made quite clear that the possession of the Petitioner shall not be disturbed 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

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Theni District,
Collectorate Campus,
Theni.

2. The Tahsildar,
Theni Taluk Office,
Theni Post & District.

3. The Estate Officer,
Southern Railway,
District Office,
Works Branch,
Madurai.



4. The Inspector of Police,
Railway Protection Force,
Madurai Railway Station,
Madurai.

5. The Inspector of Police,
Theni Town Police Station,
Theni Post & District.

+1cc to Mr.M.Saravanakumar, Advocate Sr.No.88263

+1cc to Mr.A.Haja Mohideen, Advocate Sr.No.88039

+1cc to Spl.Government Pleader Sr.No.88194

SML

VB/MR/KKR/SAR2/04/12/2017/4P/9C

Order made in
W.P. (MD) No. 20431 of 2017
Dated: 17.11.2017