



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 08.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD)No.22572 of 2017
and

W.M.P (MD)No.18870 of 2017

P.Sekar

: Petitioner

.vs.

1. The District Collector,
Sivagangai District,
Sivagangai.

2. The Tahsildar,
Sivagangai Taluk,
Sivganganai District.

3. The Commissioner,
Sivagangai Panchayat Union,
Sivagangai District.

: 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 relating to the proceedings of the Eviction Notice made in Na.Ka.P4/2217/2017, dated 24.11.2017, on the file of the Third Respondent and to quash the same.

For Petitioner	: M/s.V.Kannan
For Respondents	: Mr.M.Govindan,
1 and 2	Spl. Govt.Pleader
For Respondent-3	: Mr.T.S.Mohammed Mohideen
	Addl.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 relating to the proceedings of the Eviction Notice made in Na.Ka.P4/2217/2017, dated 24.11.2017, on the file of the Third Respondent and to quash the same.

2.Heard both sides. No counter is filed on behalf of the respondents 1 to 3.



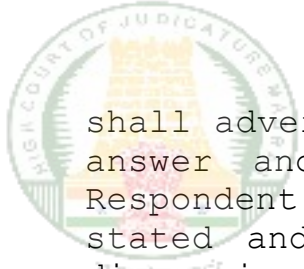
3. By consent, the main Writ Petition itself is taken up for final disposal.

4. It comes to be known that the impugned proceedings of the Third Respondent, dated 24.11.2017 requiring the Petitioner to remove the encroachment in respect of S.No.63-A1 of Melavaniyangudi Village Group by himself voluntarily within a period of one week from the date of receipt of a copy of the order, failing which, he was informed that as per Government Rules, in the presence of Tahsildar concerned, the encroachment in question would be removed.

5. A mere perusal of the impugned order, dated 24.11.2017 of the Third Respondent un-erringly points out that the Petitioner in the presence of Tahsildar, Sivagangai Taluk, Sivagangai District, had given a statement and on examination, the said statement was found to be not acceptable one. It was also mentioned in the impugned order that in the entrance of Government Medical College Hospital at Melavaniyangudi Village Group in S.No.63-A1, the Petitioner is running a Tea Shop, after encroaching the Government Poramboke land.

6. Although, the Third Respondent in the impugned order, dated 24.11.2017 had stated that the Petitioner's statement on examination was not accepted, yet the Third Respondent had not removed the encroachment in question. Further, one week time was granted to the Petitioner to voluntarily remove the encroachment in question. For the impugned proceedings, dated 24.11.2017 of the Third Respondent, the Petitioner has not submitted any objection/remarks/representation before the Third Respondent. It is also an indisputable fact that the Petitioner is not yet removed from the subject-matter property in question.

7. Considering the fact that the Petitioner's statement furnished and recorded in the presence of Tahsildar, Sivagangai Taluk, Sivagangai District, was only found to be not acceptable one and apart from that, the Third Respondent had not initiated any further proceedings or action in regard to the removal of encroachment made by the Petitioner in the subject-matter in question, at this stage, this Court, directs the Petitioner to submit his objection, if any, for the present impugned notice, dated 24.11.2017 within a period of ten days from the date of receipt of a copy of this order. Soon after the receipt of objection/representation made by the Petitioner in regard to the impugned proceedings/notice of the Third Respondent, dated 24.11.2017, the Third Respondent is directed to pass final orders within a period of three weeks thereafter, of course, after opportunity of personal hearing, if the Petitioner so requires/desires and it is open to the Petitioner to raise all factual and legal pleas before the Third Respondent, who in turn



shall advert to the same/meet out the same, by way of appropriate answer and this exercise shall be carried out by the Third Respondent within the time prescribed by this Court as afore-stated and that too, in a fair, just, impartial, unbiased and dispassionate manner, especially, uninfluenced and un-trammelled by any of the observations made by this Court in this Writ petition. Till final orders are passed based on the impugned proceedings/notice of the Third Respondent, dated 24.11.2017, it is abundantly made clear that the Petitioner's possession in the subject-matter property shall not be disturbed by any one, in any manner, whatsoever.

8. 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 (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Sivagangai District,
Sivagangai.
2. The Tahsildar,
Sivagangai Taluk,
Sivagangai District.
3. The Commissioner,
Sivagangai Panchayat Union,
Sivagangai District.

+1cc to Mr.V.Kannan, Advocate Sr.No.91878
+1cc to Spl.Government Pleader Sr.No.92117

VSN

VB/MR/KKR/SAR3/22/12/2017/3P/6C

ORDER MADE IN
W.P. (MD) No.22572 of 2017
and
W.M.P (MD) No.18870 of 2017
08.12.2017