



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2017

CORAM:

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

W.P.(MD)No.23756 of 2017

and

W.M.P(MD)Nos.19948 and 19949 of 2017

Paramasivam

: Petitioner

.vs.

1.The District Collector,
Kanyakumari District,
Kanyakumari.

2.The Revenue Divisional Officer,
Nagercoil,
Kanyakumari District.

3.The Tahsildar,
Agastheeswaram Taluk,
Kanyakumari District.

4.The Executive Office,
Anjugramam Town Panchayat,
Anjugramam,
Kanyakumari District.

5.Bala Shankar

: Respondents

(The Fifth Respondent deleted from the cause title
as per the endorsement made by the Learned Counsel
for the Petitioner, dated 21.12.2017)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order in Na.Ka.No.53/2016, dated 14.12.2017 passed by the Fourth Respondent and to quash the same insofar as the Petitioner is concerned and consequently to direct the Respondents 1 to 4 not to remove the Petitioner's occupation from the land S.No.721/1, situating in Shembaga Ramapuram, Anjugramam Town Panchayat, Agasteeswaram Taluk, Kanyakumari District, except due process of Law.



For Petitioner : M/s.M.S.Jeyakarthik
For Respondents : Mr.M.Govindan
1 to 4 Special Govt.Pleader
For Respondent-5 : Deleted

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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 Certiorarified Mandamus calling for the entire records relating to the impugned order in Na.Ka.No.53/2016, dated 14.12.2017 passed by the Fourth Respondent and to quash the same insofar as the Petitioner is concerned and consequently to direct the Respondents 1 to 4 not to remove the Petitioner's occupation from the land in S.No.721/1, situating in Shembaga Ramapuram, Anjugramam Town Panchyat, Agasteeswaram Taluk, Kanyakumari District, except due process of Law.

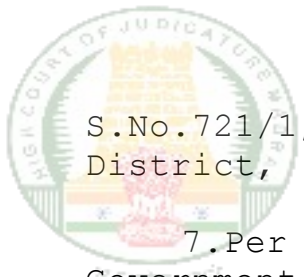
2.Heard both sides. No counter is filed on behalf of the respondents 1 to 4. The Fifth Respondent is deleted from the cause-title, as per the endorsement made by the Learned Counsel for the Writ Petitioner, in the Writ Petition.

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

4.Admittedly, the Petitioner was issued with final notice, dated 14.12.2017 requiring him to vacate from his residence and also to remove his articles within a period of three days. In the impugned final notice, dated 14.12.2017 issued by the Fourth Respondent/The Executive Office, Anjugramam Town Panchayat, Anjugramam, Kanyakumari District, there was a mention of the earlier order of this Court in W.P(MD)No.1429 of 2017, dated 30.1.2017, wherein, it was ordered to remove the encroachments. Based on the aforesaid Writ Order, the Petitioner was required to remove the encroachment in question before 22.12.2017, failing which, he was further informed that the encroachment of his residence would be removed without any notice and necessary expenditures to be incurred thereto will be recovered from him.

5.There is no doubt as to the fact that in W.P(MD)No.1429 of 2017 filed by one Bala Shankar against the District Collector, Kanyakumari District and 8 others, the present Writ Petitioner(in W.P(MD)No.23756 of 2017) was not issued with notice notwithstanding the fact that he was arrived as the 7th Respondent.

6.In this connection, a perusal of the order, dated 30.1.2017 in W.P(MD)No.1429 of 2017 passed by the Division Bench of this Court, it is quite evident that the Respondents 1 to 4 therein were directed to remove the encroachment which are in existence in



S.No.721/1, Anjugramam Village, Agasteeswaram Taluk, Kanyakumari District, in due process of Law, within a period of two months.

7.Per contra,it is the submission of the Learned Special Government Pleader appearing for the Respondents 1 to 4 that the Petitioner was issued with earlier show-cause notice on 13.1.2017 and letter on 13.9.2017 and that for these show-cause notices, the Petitioner had not submitted his representation/objection before the competent authority. Therefore, it is represented on behalf of the Respondents 1 to 4 that the Fourth Respondent/The Executive Officer, Anjugramam Town Panchayat, Anjugramam, Kanyakumari District had issued the impugned notice, dated 14.12.2017 requiring the Petitioner to remove the encroachment and to take all his belongings within a period three days and the same is free from any legal flaw.

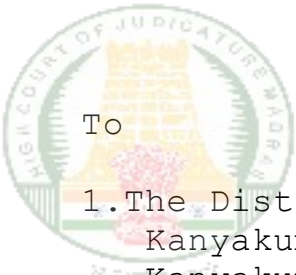
8.For the impugned notice, dated 14.12.2017, issued by the Fourth Respondent addressed to the Petitioner, the Petitioner, till date, has not furnished any reply/objection. As such, this Court, without going into the merits of the subject-matter in issue and also not dwelling deep into the area of controversies between the parties, at this stage, simpliciter, directs the Petitioner to submit his representation/objection for the notice, dated 14.12.2017 within a period of two weeks from the date of receipt of a copy of this order. It is lucidly made clear that more than the time of two weeks as afore-stated, the Petitioner was not given any more time/opportunity in this regard to file his representation/objection because of the simple reason that he had not responded on earlier two occasions for the show-cause notice, dated 13.1.2017 and 13.9.2017. If the Fourth Respondent receives the objection/remarks/explanation of the Petitioner within the time adumbrated by this Court as stated supra, he is directed to look into the same and to pass a reasoned speaking order, after providing sufficient opportunity to the Petitioner and others concerned, if any, within a period of three weeks thereafter. It is open to the petitioner to raise all factual and legal pleas before the Fourth Respondent, who shall look into the same at the time of passing of final orders in the subject-matter in issue. Till the final orders are passed in the subject-matter in issue, possession of the Petitioner shall not disturbed by any one, in any manner, whatsoever.

9.With the above said observation(s) and direction(s), the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/



To

1.The District Collector,
Kanyakumari District,
Kanyakumari.

2.The Revenue Divisional Officer,
Nagercoil,
Kanyakumari District.

3.The Tahsildar,
Agastheeswaram Taluk,
Kanyakumari District.

4.The Executive Office,
Anjugramam Town Panchayat,
Anjugramam,
Kanyakumari District.

ORDER MADE IN
W.P. (MD) No.23756 of 2017
and
W.M.P (MD) Nos.19948 and
19949 of 2017
21.12.2017

vsn

AM/MR/SAR 4/29.12.2017/4P/5C