



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2017

CORAM:

**THE HONOURABLE MR. HULUVADI G. RAMESH,
ACTING CHIEF JUSTICE**

AND

**THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM
W.P. (MD) .No. 4263 of 2017**

Chokkalingam

: Petitioner

Vs.

1. The Tahsildar,
Taluk Office, Radhapuram,
Tirunelveli District.

2. The Executive Officer [i/c],
North Valliyoor Special Grade Panchayat,
North Valliyoor, Tirunelveli District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the impugned order in Na.Ka.No.18/2017, dated 07.03.2017, passed by the second respondent herein and quash the same.

For Petitioner	: Mr.S.Gokulraj
For Respondent No.1	: Mr.K.Guru Additional Government Pleader
For Respondent No.2	: Mr.R.Karthikeyan Additional Government Pleader

O R D E R

[Order of the Court was made by
The Hon'ble The Acting Chief Justice]

Heard the learned counsel for the petitioner, Mr.K.Guru, learned Additional Government Pleader, who takes notice for the first respondent and Mr.R.Karthikeyan, learned Additional Government Pleader, who takes notice for the second respondent.

2. The petitioner has come up with the present Writ Petition challenging the impugned notice dated 07.03.2017 issued by the second respondent, in and by which the petitioner has been directed to remove the encroachment made in Survey No.2208, Sree Kumaran Compound, Vetrivel Computer, Balaji Consulting, Muruga



Bhavanan, Sethu Medical, situated at Radhapuram, North Valliyoor, within five days, failing which, necessary action would be taken to remove the same by the Panchayat.

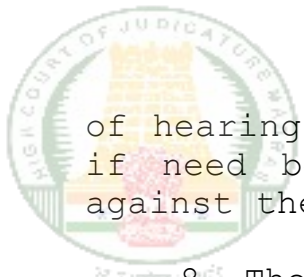
3. According to the petitioner, during lifetime, his father executed a registered Will on 04.12.1991, whereby a portion of the said property was allotted to all three male legal heirs. After the demise of his father, on 22.02.1992, a patta was issued jointly in the name of the above legal heirs. The petitioner had constructed a building, after obtaining necessary approval from the second respondent. While so, the second respondent herein issued the impugned notice dated 07.03.2017, directing the petitioner to remove the encroachment made in Survey No.2208, situated at Radhapuram, North Valliyoor, Tirunelveli District, within five days. Under the above stated circumstances, the petitioner is now before this Court With this Writ Petition.

4. It is the submission of the learned counsel for the petitioner that the petitioner had put up construction only in Natham land and he has also been issued with patta in respect of the property in question. The grievance of the petitioner is that despite patta has been issued to him and despite plan approval has been granted to put up construction, the impugned notice has been issued by second respondent, on 07.03.2017, directing the petitioner to demolish and vacate the property in question within five days.

5. The learned Additional Government Pleaders appearing for the respondents 1 and 2 submitted that the property in question was measured and demarcated by the officials of the revenue and thereafter only, the impugned notice has been issued directing the petitioner to remove the encroachments.

6. Whether the petitioner has been in possession and enjoyment of the property in question is a question to be determined by the second respondent herein. Having regard to the rival contentions, we do not propose to go into the merits of the matter. Suffice it to direct the petitioner to treat the impugned notice dated 07.03.2017 as a show cause notice and submit his explanation for the same.

7. Accordingly, the petitioner is directed to treat the impugned notice dated 07.03.2017 as a show cause notice and the petitioner shall submit his explanation to the second respondent within a period of 15 days from the date of receipt of a copy of this Order by enclosing a copy of this Order and also all the relevant documents, including the patta issued to him and the plan approval and on receipt of the same, the second respondent shall consider the same and pass appropriate orders on merits and in accordance with law within a period of three months from the date of receipt of explanation, after affording sufficient opportunity



of hearing to the petitioner and also after conducting re-survey, if need be. Till such time, no coercive steps shall be taken against the petitioner.

8. The Writ Petition stands disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Records)

/True copy/

Sub Assistant Registrar

To

1.The Tahsildar,
Taluk Office, Radhapuram,
Tirunelveli District.

2.The Executive Officer [i/c],
North Valliyoor Special Grade Panchayat,
North Valliyoor, Tirunelveli District.

+1 CC to M/s.THE SPECIAL GOVERNMENT PLEADER, SR No. 14692

+1 CC to M/s.R.KARTHIKEYAN, Advocate, SR No. 15039

+1 CC to M/s.S.GOKULRAJ, Advocate, SR No. 14480

NB

PSM/SKN-RSK/22.03.2017/3P/6C

ORDER MADE IN
W.P. (MD) .No.4263 of 2017
14.03.2017