



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 16.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

W.P(MD)No.4453 of 2017
and
W.M.P(MD)No.3574 of 2017

P.Muthiah

.. Petitioner

Vs.

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

2.The Tahsildar,
Radhapuram Taluk,
Tirunelveli District.

3.The Assistant Divisional Engineer (Highways),
Construction and Maintenance,
Radhapuram Taluk, Tirunelveli District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records pertaining to the Impugned Order passed by the third respondent vide his proceedings in Ku.No.1/Encroachment/2016-17/ Vu.Ko.Po, dated 21.02.2017 and quash the same as illegal.

For Petitioner

: Mr.G.Mathavan

For Respondents

: Mr.K.Guru,
Additional Government Pleader.

ORDER

[Order of the Court was made by **A.SELVAM, J.**]

This writ petition has been filed under Article 226 of the Constitution of India praying to call for records relating to the impugned notice dated 21.02.2017 passed in Ku.No.1/Encroachment/2016-17/Vu.Ko.Po by the third respondent and quash the same, by way of issuing a writ of certiorari.

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

2.The learned counsel appearing for the petitioner has



vehemently contended to the effect that in Survey No.1319/3, a temple has been in existence for a period of 150 years and the petitioner has been doing pooja in the said temple and the third respondent all of a sudden even without giving sufficient opportunity has issued the impugned eviction proceedings and under the said circumstances, the present writ petition has been filed for getting the relief sought therein.

3.Mr.K.Guru, learned Additional Government Pleader, has taken notice for the respondents.

4.It is seen from the records that the third respondent has issued the impugned proceedings by way of saying that a temple has been constructed by way of encroaching Highways Road. Further it is seen from the notice that seven days time has been given to remove encroachment. However in the impugned notice it has been explicitly stated to the effect that if the petitioner is having sufficient records, he can produce the same.

5.It is not the case of the petitioner that the concerned temple is in existence in a patta land. It is an admitted fact that Survey No.1319/3 is nothing, but a Highways Road.

6.The specific contention putforth on the side of the third respondent is that a temple has been constructed by way of encroaching Highways Road. As pointed out earlier, the petitioner has been given sufficient opportunity to submit relevant records for the purpose of proving the alleged ownership.

7.Considering the cumulative effect of the notice issued by the third respondent, this Court is of the view that there is no flaw in the notice issued by the third respondent and therefore the relief sought in the writ petition cannot be granted.

8.In fine, this writ petition is dismissed without costs. However the petitioner is at liberty to submit relevant documents for the scrutiny of the third respondent. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To

<https://hcservice.courts.gov.in/>
The District Collector,
Collectorate Campus,
Tirunelveli District.



2.The Tahsildar,
Radhapuram Taluk,
Tirunelveli District.

3.The Assistant Divisional Engineer (Highways),
Construction and Maintenance,
Radhapuram Taluk, Tirunelveli District.

+1cc to Mr.G.Mathavan,Advocate,SR.15251

+1cc to Special Government Pleader,SR.15508

ORDER MADE IN
W.P (MD) No.4453 of 2017
and
W.M.P (MD) No.3574 of 2017
16.03.2017

KK-SVMMS-23.03.2017-3P-6C