



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 26.04.2017

CORAM:

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

W.P(MD)No.7909 of 2017
and
W.M.P(MD)Nos.6131 and 6132 of 2017

Thokkalavar Community rep.by its
President R.Veera Perumal,
Aanaimalaiyanpatti Village,
Uthamapalayam Taluk,
Theni District.

.. Petitioner

Vs.

1.The District Collector,
Theni District, Theni.

2.The Superintendent of Police,
Theni District, Theni.

3.The Assistant Director of Panchayats,
Theni, Theni District.

4.The Block Development Officer
(Village Panchayats),
Uthamapalayam, Uthamapalayam Taluk,
Theni District.

5.The Special Officer,
Aanaimalaiyanpatti Village Panchayat,
Uthamapalayam Taluk, Theni District.

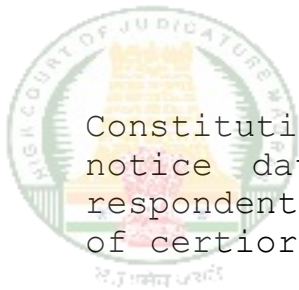
.. Respondents

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 of the impugned notice in Na.Ka.No.774/2017/P3, dated 24.03.2017 of the fifth respondent and quash the same as illegal and unconstitutional.

For Petitioner : Mr.C.Ganesh Kumar

For Respondents : Mr.T.S.Mohammed Mohideen,
Additional Government Pleader.

ORDER



Constitution of India praying to call for records relating to the notice dated 24.03.2017 passed in Na.Ka.No.774/2017/P3 by the respondents 4 and 5 and quash the same, by way of issuing a writ of certiorari.

2.Mr.T.S.Mohammed Mohideen, learned Additional Government Pleader, has taken notice for the respondents.

3.The learned counsel appearing for the petitioner has repeatedly contended to the effect that in Survey No.429/1 a temple and community hall are situate and the respondents 4 and 5 even without giving proper notice as contemplated under law has issued the impugned notice dated 24.03.2017 and since the impugned notice dated 24.03.2017 is totally illegal, the same is liable to be quashed.

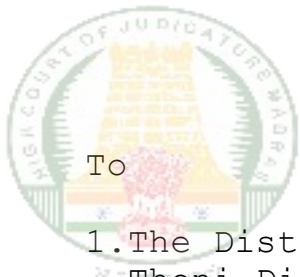
4.Per contra, the learned Additional Government Pleader appearing for the respondents has contended to the effect that in the impugned notice dated 24.03.2017, fifteen days time has been granted and so far no eviction proceeding has been taken.

5.The main contention putforth on the side of the petitioner is that the impugned notice has not been given as contemplated under law.

6.It is seen from the records that in W.P(MD)No.24479 of 2016, this Court has directed the concerned authorities to remove encroachments under due process of law within a period of two months. In pursuance of the order passed by this Court, the impugned notice has been given, wherein fifteen days time has been granted. Since the impugned notice has been issued on 24.03.2017 and so far no attempt has been made to evict the petitioner, this Court is of the view that the impugned notice has been given as contemplated under law. Further the respondents 4 and 5 have acted only on the basis of the specific direction given in the order passed in W.P(MD)No.24479 of 2016 and therefore viewing from any angle, the contention putforth on the side of the petitioner cannot be accepted and altogether the present writ petition deserves to be dismissed.

7.In fine, this writ petition is dismissed without costs. At request made on the side of the petitioner, for shifting the temple and community hall to some other place, time is granted till 10.05.2017. After 10.05.2017, the authorities are directed to remove encroachments. Consequently, connected Miscellaneous Petitions are dismissed.

Sd/-
Assistant Registrar



To

1.The District Collector,
Theni District, Theni.

2.The Superintendent of Police,
Theni District, Theni.

3.The Assistant Director of Panchayats,
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5.The Special Officer,
Aanaimalaiyanpatti Village Panchayat,
Uthamapalayam Taluk, Theni District.

+3 CC to Mr.C.GANESH KUMAR, Advocate, SR No. 54342,54094

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 55188

SMN

PSM/MR/SAR4/02.05.2017/3P/10C

ORDER MADE IN
W.P (MD) No.7909 of 2017
and
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