



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2017

CORAM:

**THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**

W.P. (MD) No.195 of 2016

and

W.M.P (MD) No.158 of 2016

Boopathy : Petitioner
.vs.

1.The District Collector,
Ramanathapuram,
Ramanathapuram District.

2.The Commisioner,
Rameswaram Municipality,
Ramanathapuram District.

3.The Tahsildar,
Rameswaram Taluk,
Ramanathapuram District.

4.T.R.G.Mohan @Mohandass : Respondents

(Fourth Respondent impleaded as per order of this Court
made in W.M.P(MD)No.13198 of 2016 in W.P(MD)N0.195 of 2016,
dated 25.10.2017)

PRAYER: Writ Petition filed under Article 226 of the Constitution
of India praying this Court for issuance of a Writ of Mandamus
forbearing the respondents from evicting the Petitioner from his
dwelling house without following the direction of this Court in
W.P.No.6812 of 2015.

For Petitioner :M/s.M.Subash Babu
For Respondents :Mr.M.Govindan
1 and 3 Special Govt.Pleader

For Respondent-2 :M/s.M.Kannan

For Respondent-4/ :M/s.S.C.Herold Singh
for proposed impleaded For Mr.R.Jegadeeswaran
party



O R D E R

[Order of the Court was made by **M.VENUGOPAL, J.**]

The Petitioner has filed the present Writ Petition praying for passing of an order in forbearing the respondents from evicting the Petitioner from his dwelling house, without following the direction of this Court in W.P.No.6812 of 2015.

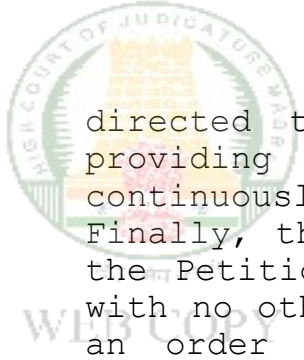
2.Heard both sides.

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

4.According to the Petitioner, he is originally in possession and enjoying the Government Poramboke land for the past several years and later, constructed a hut in the property. He has also obtained electricity connection and paying house-tax for the past 25 years. Also, in the year 2005, he had approached the First Respondent/The District Collector, Ramanathapuram, Ramanathapuram District, for issuance of patta in his favour which was forwarded by the First Respondent to the Third Respondent and to that effect, he was issued with a receipt, dated 13.04.2005. It appears that as on date, the said proceeding is pending.

5.The stand of the Petitioner is that suppressing the afore-stated facts, one T.R.G.Mohan @ Mohandass ((impleading Petitioner/Fourth Respondent in W.P(MD)No.195 of 2016), had sent representation to the respondents, dated 11.04.2015, as if the said property is not a poramboke land and that he is the absolute owner of the property. Further, it was averred that the Petitioner as well as one Ravi had encroached his property and constructed a hut. Moreover, the said impleading Petitioner/Fourth Respondent in the present Writ Petition(T.R.G.Mohan @ Mohandass) and the village people are using the afore-stated property to reach the Ramar Patham Temple. Further averment was that, all of a sudden, the Petitioner had encroached the impleading Petitioner/Fourth Respondent's property. Therefore, on the basis of the representation of the impleading Petitioner/Fourth Respondent in W.P.No.195 of 2016, this Court had directed the Second Respondent to pass orders to consider his representation, dated 11.04.2015 and pass appropriate orders on its own merits and in accordance with Law, after providing opportunity of hearing to the Impleading Petitioner/Fourth Respondent herein(T.R.G.Mohan @ Mohandass) in the Writ Petition as well as the Petitioner and other interested persons, if any, and initiate appropriate action, as per law within a period of six weeks from the date of receipt of a copy of the order.

6.The stand of the Petitioner is that the First Respondent had wrongly appreciated the direction of this Court and straight-way



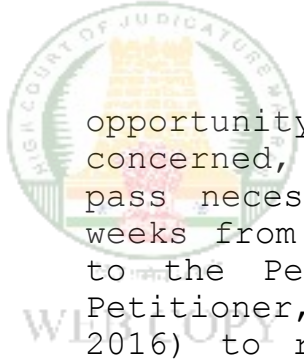
directed the Second Respondent to evict the Petitioner without providing any opportunity and that apart, the Second Respondent continuously threatened to evict the Petitioner from the place. Finally, the Second Respondent had threatened that he would destroy the Petitioner's hut, on 5.1.2016. Therefore, the Petitioner, left with no other option, had filed the present Writ Petition, wherein, an order was sought for, for issuance of a Writ of Mandamus restraining the respondents from evicting the Petitioner from his dwelling house without following the direction of this Court in W.P.No.6812 of 2015.

7.It comes to light that the Impleading Petitioner/Fourth Respondent herein, namely T.R.G.Mohan @ Mohandass, as Petitioner, has filed W.P(MD)No.6812 of 2015 against the District Collector, Ramanathapuram District and five others praying for issuance of a Writ of Mandamus in directing the Respondents 1 to 3 therein to remove the encroachment made by the Respondents 4 to 6 therein in Kanthamathana Parvatham(Ramar Patham)Salai, Rameswaram Taluk, Ramanathapuram District and this Court, after contest, on 8.6.2015 at para 5, had passed the following order and consequently disposed of the Writ Petition:

''5.Considering the limited scope of the relief sought for, this Court, without going into the merits of the Petitioner's claim, directs the second respondent to consider the representation of the Petitioner, dated 11.4.2015 and pass appropriate orders on its own merit and in accordance with law, after affording due opportunity of hearing to the Petitioner as well as the respondents 4 to 6 and to all other interested parties, if any, and initiate appropriate action as per law, within a period of six weeks from the date of receipt of a copy of this order.''

8.At this juncture, the Learned Counsel for the Petitioner refers to an inter-departmental communication, dated 5.10.2015 of the First Respondent/The District Collector, Ramanathapuram District addressed to the Commissioner, Ramanathapuram Municipality, wherein, it was made mention of that the said cite was to be inspected and if any encroachment exists, the same was to be removed and a report was to be transmitted and that this communication was ordered to be treated as 'Urgent' etc.

9.It is to be borne-in-mind that a Writ Petition cannot be filed before a Court of Law merely on the basis of an inter-departmental communication from one Officer to another. That apart, considering the fact that the Petitioner seeks only opportunity to be provided to him to put-forward his case at the time of the conduct of enquiry, as per the direction issued by this Court in W.P.No.6812 of 2015, without expressing any opinion on the merits of the matter of the subject-matter in issue and also not dwelling deep into the issue, simply directs the Second Respondent to provide an



opportunity of hearing to the Writ Petitioner and also to the others concerned, if any. Further, the Second Respondent is directed to pass necessary speaking orders on merits within a period of six weeks from the date of receipt of a copy of this order. It is open to the Petitioner and others concerned (including the Impleading Petitioner, who is arrayed as Fourth Respondent in W.P.(MD)No.195 of 2016) to raise all factual and legal pleas and same has to be adverted to by the Second Respondent at the time of passing of orders, in a complete and comprehensive manner.

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

Sd/-

Assistant Registrar (RECORD)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Ramanathapuram,
Ramanathapuram District.

2. The Commissioner,
Rameswaram Municipality,
Ramanathapuram District.

3. The Tahsildar,
Rameswaram Taluk,
Ramanathapuram District.

+1cc to Mr.M.KANNAN Advocate in SR. No. 83560

+1cc to Mr.M.SUBASH BABU Advocate in SR. No. 83807

VSN

JS/MR.KKR/SAR.1/8.11.2017/4P-6C

ORDER MADE IN
W.P. (MD) No.195 of 2016
and
W.M.P (MD) No.158 of 2016
25.10.2017