



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.05.2017

CORAM :

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

and

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P(MD)No.9087 of 2017

and

WMP(MD)Nos.6930 to 6932 of 2017

R.Vellaiammal

.... Petitioner

vs.

1)The District Collector,
Collectorate,
Dindigul District.

2)The Tahsildar,
Vedachandur Taluk Office,
Dindigul District.

3)The Executive Officer,
O/o. the Executive Officer,
Vedachandur Town Panchayat,
Dindigul District.

4)Mr.A.Muthusamy

.... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records pertaining to the Impugned order in Na.Ka.No.10418/2016/A4 dated 05.04.2017 on the file of the Respondent No.2 and consequential impugned order in Na.Ka.No.136/2017/A2 dated 20.04.2017 on the file of the Respondent No.3 and quash the same as illegal.

For Petitioner	: Mr.T.Lajapathi Roy
For R1 to R3	: Mr.M.Alagadevan
	Special Government Pleader

ORDER

(Order of the Court was made by M.V.MURALIDARAN, J.)

Mr.M.Alagadevan, learned Special Government Pleader takes notice for the respondents 1 to 3. In view of the order that is going to be passed, notice to the 4th respondent is not necessary. By consent of both parties, the writ petition itself is taken up for final disposal at the stage of admission.



2.The petitioner has purchased a house property in S.No.1886/16, Pampatti Street, Vedachandur Village, Vedachandur Taluk, Dindigul District and residing in the said dwelling house from 1995. There is a lane adjacent to his house in S.No.1886/17 which is allegedly belongs to Vedachandur Town Panchayat.

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3.While so, one Sakunthala Ammal filed O.S.No.158 of 1996 on the file of the District Munsif cum Judicial Magistrate Court, Vedachandur, against the petitioner for declaration and injunction in respect of S.No.1886/17 that it is belonged to Vedachandur Town Panchayat. Based on the report of the Advocate Commissioner, who inspected the property in dispute, the suit was dismissed. While so, the 4th respondent sent a representation to the 2nd respondent, stating that the petitioner has made encroachment in the common lane in S.No.1886/17 by putting up a house door.

4.Based on the said representation of the 4th respondent, the 2nd respondent passed an order dated 05.04.2017, stating that the petitioner has made encroachment in the common lane by putting up a house door and directed the 3rd respondent to take steps to remove the encroachment. Based on the said order dated 05.04.2017 of the 2nd respondent, the 3rd respondent passed an order dated 20.04.2017, directing the petitioner to remove the house door put up in the abovesaid common lane and further stated that if it is not removed by the petitioner immediately, the personnel of the 3rd respondent would remove the same.

5.Aggrrieved by the order dated 05.04.2017 passed by the 2nd respondent and the consequential order dated 20.04.2017, passed by the 3rd respondent, the petitioner has filed this writ petition to quash the said orders.

6.The main ground on which the impugned orders are assailed is that the respondents 2 and 3 unilaterally passed the impugned orders without even affording an opportunity of personal hearing to the petitioner to put forth his case, thereby violated the principles of natural justice and also Sections 6(1) and 7 of the Tamil Nadu Land Encroachment Act, 1905.

7.Perusal of the impugned orders also does not disclose that before passing such orders, the petitioner was given notice calling upon his explanation. Therefore, we are of the view that on that score alone, the impugned orders are liable to be interfered with.

8.Accordingly, the Writ Petition is allowed and the impugned orders dated 05.04.2017 and 20.04.2017 are set aside. The matter is remanded to the 2nd respondent who shall issue notice to the petitioner and the parties concerned and pass appropriate orders after affording the petitioner and the parties concerned,



opportunity of personal hearing, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(W)

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/True Copy/

Sub Assistant Registrar

To

- 1)The District Collector,
Collectorate,
Dindigul District.
- 2)The Tahsildar,
Vedachandur Taluk Office,
Dindigul District.
- 3)The Executive Officer,
O/o. the Executive Officer,
Vedachandur Town Panchayat,
Dindigul District.

+1cc to Mr.T.Lajapathi Roy, Advocate Sr.No.56574

nbi

vb/rsk/sar1/24.05.2017/3p/5c

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17.05.2017