



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

Writ Petition (MD)No.9263 of 2017

&

W.M.P.(MD)No.7040 of 2017

T.Selvaraj

... Petitioner

Vs.

The Executive Officer,  
Musiri Town Panchayat (Selection Grade),  
Musiri,  
Trichy District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned notice of the respondent, vide his proceeding in Na.Ka.No.53 of 2017, dated 28.04.2017 and quash the same as illegal and consequently, directing the respondent not to evict the petitioner from his address mentioned dwelling house without following any due process of law.

For Petitioner : Mr.T.Vadivelan

For Respondent : 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 respondent.

2.By consent, the main Writ Petition itself is taken up for final disposal at the time of admission itself.

3.The petitioner has come forward with this writ petition seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned notice of the



respondent, vide his proceeding in Na.Ka.No.53 of 2017, dated 28.04.2017 and quash the same as illegal and consequently, directing the respondent not to evict the petitioner from his address mentioned dwelling house without following any due process of law.

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4.Mr.T.Vadivelan, learned counsel for the petitioner contended that the petitioner is residing at Door No.99, Karpakavinayagar Kovil 3<sup>rd</sup> Street, Antharapatti Road, Musiri, Trichy District. It is further contended that the respondent, vide his proceeding in Na.Ka.No.53/2017, dated 06.04.2017, has issued a show cause notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, as to why he should not be evicted from the Government Land. It is further contended that after receipt of the notice, the petitioner has sent his explanation on 20.04.2017 stating that the respondent has no power to invoke this Act and hence, the show cause notice suffers for want of jurisdiction. It is also contended that the respondent has issued the impugned eviction notice under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, vide his proceedings in Na.Ka.No.53/2017, dated 28.04.2017, without considering the petitioner's explanation dated 20.04.2017 and the respondent has power only to issue notice under Section 131(2) of the Tamil Nadu Panchayat Act and the concerned Tahsildar alone has power to invoke the provision of the Tamil Nadu Land Encroachment Act, 1905.

5.Heard Mr.M.Alagadevan, learned Special Government Pleader, on the submissions made by the learned counsel for the petitioner.

6.As per Section 6 of the Tamil Nadu Land Encroachment Act, the concerned Tahsildar alone is competent to pass the impugned order. However, in this case, the respondent viz., the Executive Officer, Musiri, Town Panchayat, Musiri, has passed the impugned order. Therefore, the impugned order deserves to be set aside and accordingly, the same is set aside. The Writ Petition is allowed and the matter is remanded back to the authority concerned, who shall pass appropriate orders after giving due opportunity to the parties concerned and pass appropriate orders in accordance with law, within a period of 8 weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Vacation Officer

/True Copy/

Sub Assistant Registrar



To:

The Executive Officer,  
Musiri Town Panchayat (Selection Grade),  
Musiri,  
Trichy District.

+1cc to Mr.T.Vadivelan, Advocate Sr.No.56853

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vb/rsk/sar4/29.05.2017/3p/3c

W.P. (MD) No.9263 of 2017

17.05.2017