



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.05.2017

CORAM:

THE HONOURABLE MR.JUSTICE **M.V.MURALIDARAN**

W.P.(MD)No.9566 of 2017

and

W.M.P.(MD).No.7299 of 2017

R.Paulraj

... Petitioner

Vs.

The Thasildar,
Rajapalayam Taluk,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the impugned order made in Na.Ka.No.A6/28157/2017, dated 13.05.2017, passed by the respondent and quash the same.

For Petitioner : Mr.V.Sasikumar

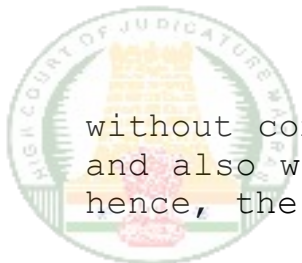
For Respondents : Mr.T.R.Janarthanan,
Addl. Government Pleader

ORDER

This writ petition has been filed by the petitioner challenging the eviction order, dated 13.05.2017, issued by respondent in Na.Ka.A6/28157/2017, whereby and whereunder the respondent directed the petitioner to evict the encroached property within 30.05.2017.

2.The learned Government Advocate takes notice for the respondent. By consent, the writ petition itself is taken up for final disposal.

3.The learned counsel for the petitioner submitted that the petitioner is the President of Inam Kovilpatti Nadar Uravinmurai, Inam Kovilpatti Village, Virudhunagar District. The said Sangam has purchased a property in S.No.1076/1A1, Puthur Village, Virudhunagar District and put up construction in the same. The said Sangam has constructed a small bathroom and also dug a borewell in the temple promboke land which is adjacent to the abovesaid property. Since the respondent herein and other persons have been interfering with the peaceful possession and enjoyment of the petitioner in the construction put up in the promboke land, the petitioner has filed a civil suit in O.S.No.357 of 2016 on the file of the learned Principal District Munsif, Srivilliputhur. While so, the respondent has issued the impugned eviction order, dated 13.05.2017, directing the petitioner to vacate from the encroached property within 30.05.2017. According to the petitioner, the said order has been issued by the respondent



without considering the explanation given by him dated 25.04.2017 and also without giving him an opportunity of personal hearing and hence, the same is liable to be set aside.

4. The learned Additional Government Pleader appearing on behalf of the respondents submitted that since the petitioner sangam encroached the temple promboke land, the impugned notice has been issued and therefore, the same need not be interfered with.

5. It is seen from the record that the respondent has issued a show cause notice dated 07.04.2017 under Section 7 of the Land Encroachment Act, for which the petitioner has also submitted his explanation on 25.04.2017, which was the last date fixed in the notice for submitting the explanation. However, nothing has been stated in the impugned notice, dated 13.05.2017, as to whether the same has been considered or not. Hence, this Court is inclined to remand the matter for fresh consideration after giving sufficient opportunity to the petitioner.

6. In view of the above, the impugned order dated 13.05.2017 is set aside and the same is remitted back to the file of the respondent for passing fresh order after considering the explanation submitted by the petitioner dated 25.04.2017 and also after affording an opportunity of personal hearing to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.

7. The Writ Petition stands disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

The Thasildar,
Rajapalayam Taluk,
Virudhunagar District.

+1cc to M/S.V.Sasikumar, Advocate SR.No. 57184
+1cc to Special Government Pleader, SR.No. 57801

W.P. (MD) No.9566 of 2017
24.05.2017