



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.17096 of 2013

and

M.P. (MD) .No.1 of 2013

J.Gnana Sagaya Arokia Raja

.. Petitioner

Vs.

1. The Commissioner,
Madurai City Municipal Corporation,
Madurai.

2. T.Alagarsamy

3. P.Rameshkumar

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records pertaining to the impugned order passed by the first respondent in Ma.Va.3/29498/2011, dated 25.09.2013 and quash the same.

For petitioner	: No Appearance
For respondent No.1	: Mr.T.Karthick Raja
	For J.Gunaseelan Muthiah
	Standing Counsel
For Respondent No.2	: Mr.G.Pandiarajan
For Respondent No.3	: No Appearance

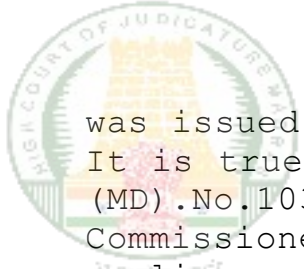
O R D E R

[Order of the Court was made by **K.K.SASIDHARAN, J.**]

None appears on behalf of the petitioner. Heard the learned Standing Counsel appearing for the Madurai City Municipal Corporation.

2. The notice issued by the first respondent, directing removal of alleged encroachment is under challenge in this Writ Petition, primarily on the ground that notice has not been issued, before passing such an order, involving civil consequences.

3. We have perused the order passed by the first respondent. There is nothing on record to indicate that the notice



was issued to the petitioner before passing the order in question. It is true that there was a direction given by this Court in W.P. (MD).No.10334 of 2011, dated 04.06.2013, directing the Commissioner, Madurai Corporation, to take action to implement the earlier order dated 20.08.2011. There was a rider to the said order, to the effect that notice should be issued to the petitioner herein, before taking action for removal of encroachment. Since no such effort was taken by the first respondent, we are inclined to quash the impugned order.

4. In the result, the order dated 25.09.2013, is set aside. The matter is remitted to the file of the first respondent for fresh consideration. We direct the first respondent to issue notice to the petitioner and thereafter, decide the matter on merits and as per law. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

5. We make it clear that the impugned order is quashed solely on the ground of violation of principles of natural justice and as such, it is open to the first respondent to pass appropriate orders on merits.

6. The Writ Petition is allowed, as indicated above. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To:

The Commissioner,
Madurai City Municipal Corporation,
Madurai.

+1cc to Mr. J.Gunaseelan Muthiah, Advocate SR.No.67848

NB

VB/SKN/RSK/SAR1/085/08/2017/2P/3C

ORDER MADE IN
W.P. (MD) No.17096 of 2013
26.07.2017