

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

WP.No.12926/2018 & WMP.Nos.15170 & 15171/2018

Sriram

Petitioner

Versus

1.The District Collector
Cuddalore and District.

2.The Revenue Tahsildar
Banruti Taluk,
Cuddalore District.

Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records connected with the impugned order of eviction notice of the 2nd respondent bearing Na.Ka.No.A1/10425/2018 dated 26.04.2018 and quash the same.

For Petitioner : Mr.D.Vijay Krishna

For Respondents : Mr.R.Udhayakumar, AGP

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.R.Udhayakumar, learned Additional Government Pleader appears on behalf of the respondents.

2 The petitioner claims to be a resident of site and superstructure in Survey No.94/1F admeasuring to an extent of 0.05.75 Ares belonging to Sri Kaliyuga Varadharaja Perumal Temple and claims to be in possession and enjoyment of the same for more than 50 years and it is also subjected to statutory levies. The grievance expressed by the petitioner is that all of a sudden, without any notice whatsoever, the 2nd respondent

has sent the impugned notice dated 26.04.2018 calling upon the petitioner to remove the encroachment within a period of seven days from the date of receipt of a copy of the notice, failing which, the concerned officials would remove the same on 04.05.2018 and making a challenge to the said impugned communication, the present writ petition is filed.

2 The learned counsel for the petitioner would submit that no provision of law has been invoked by the 2nd respondent in the impugned communication and without recourse to due process of law, the petitioner and his family cannot be dispossessed and prays for appropriate orders.

3 Per contra, the learned Additional Government Pleader would submit that admittedly, the petitioner is a rank encroacher and by resorting to due process of law and affording an opportunity to the petitioner, eviction proceedings have been initiated and prays for dismissal of this writ petition.

4 This Court has considered the rival submissions and also perused the materials placed before it.

5 The petitioner, in response to the impugned notice, has sent a legal notice dated 30.04.2018 to the respondents 1 and 2 and this Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the 2nd respondent to consider the said legal notice dated 30.04.2018, treating it as a representation, submitted by the petitioner and give a disposal on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner and till such time, shall defer further decision in terms of the impugned notice/communication dated 26.04.2018. It is also made clear that the petitioner, till the disposal of the representation by the 2nd respondent, shall not create any third party rights in respect of the site and superstructure in question and shall also not alter the physical features of the same.

6 The writ petition stands disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS V)

//True copy//

Sub Assistant Registrar

AP

To

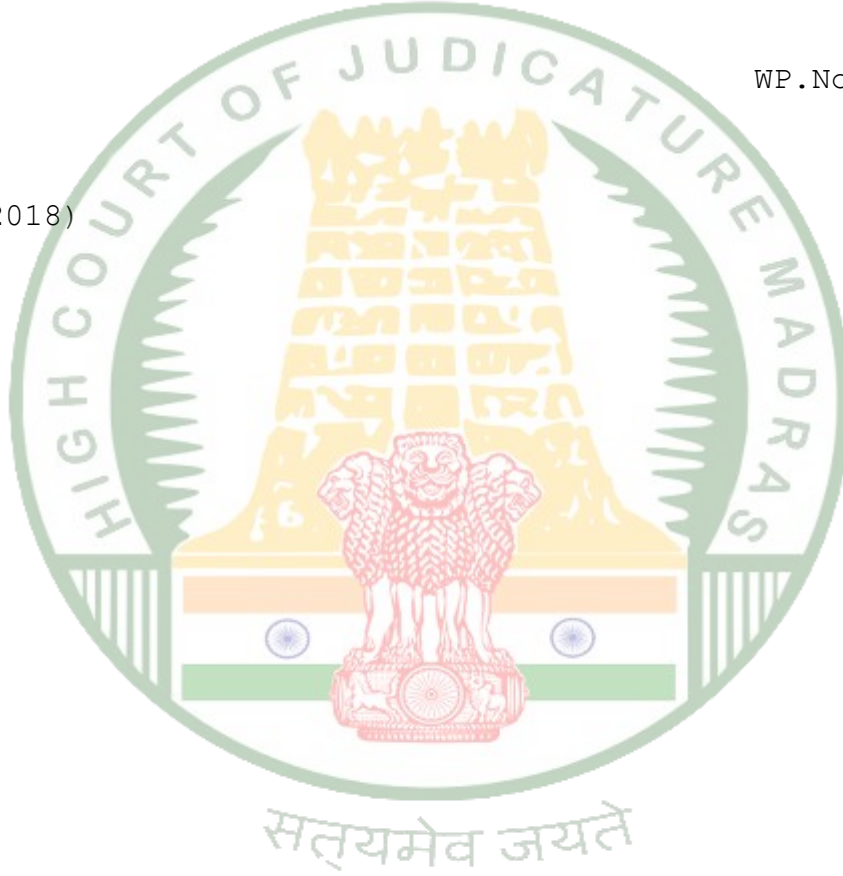
1.The District Collector
Cuddalore and District.

2.The Revenue Tahsildar
Banruti Taluk,
Cuddalore District.

+lcc to Mr.D.Asenthamani, Advocate SR.No.34888
+lcc to Special Government Pleader SR.No.35353

WP.No.12926/2018

RJ (CO)
GN(06/07/2018)



WEB COPY