



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 01.02.2018  
CORAM

**THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN**  
**AND**

**THE HONOURABLE MRS.JUSTICE R.THARANI**

W.P.(MD)No.2012 of 2018

and

W.M.P(MD)Nos.2233 and 2234 of 2018

T.Rethinam

.. Petitioner

Vs.

- 1.The District Collector,  
District Collector's Office,  
Trichy-1,  
Trichy District.
- 2.The Commissioner,  
Manachanallur Panchayat Union,  
Manachanallur,  
Trichy District.
- 3.The Block Development Officer,  
Manachanallur Panchayat Union,  
Manachanallur,  
Trichy District.
- 4.The Tahsildhar,  
Manachanallur,  
Trichy District.

(R4 is impleaded as suto motu on 01.02.2018)

..Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to third respondent proceedings made in Na.Ka.Thi2/1781/2017 dated 18.01.2018, quash the same and further direct the third respondent to follow guidelines issued by Full Bench of this Court reported in 2005(2) CTC 74 before proceed with further.

For Petitioner : Mr.R.Sundar

For Respondents : Mr.D.Muruganantham

Addl. Govt. Pleader for R1 & R4  
Mr.Saravanan for R2 and R3

ORDER

[Order of the Court was delivered by N.KIRUBAKARAN,J]

Since the Tahsildar, Manachanallur is said to have conducted survey, he is a necessary party in this writ petition. Hence, this Court *suo motu* impleads the Tahsildar, Manachanallur, Trichy District as fourth respondent.

2.The petitioner is said to have been occupying the property comprised in S.F.No.399/7 (New) 16/part (old) measuring 4 cents. Though the petitioner has already obtained patta and family cards and put up superstructure and has been residing there for so many years, without conducting any survey in his presence and without issuing any notice, the impugned eviction order has been passed. Challenging the same, the petitioner has come before this Court.

3.Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the first and fourth respondents and the learned counsel appearing for the second and third respondents.

4. Though the impugned order would show that survey was conducted by the Tahsildar through Surveyor, it is not clear as to whether the survey has been conducted in the presence of the petitioner or not. Moreover, no show cause notice has been issued to the petitioner. Without issuing any notice, the eviction order has been passed violating the principles of natural justice. Therefore, the impugned order is liable to be set aside.

5.In view of the above reasons, following directions are given:-

(1)The fourth respondent is directed to conduct the survey in the presence of the petitioner.

(2)After making survey, along with a copy of the sketch and report, show cause notice is directed to be issued to the petitioner, if encroachment has been made by the petitioner other than the property to which the petitioner was already issued patta in S.No.399/7.

(3)On receipt of the show cause notice, the respondent shall give reply within a period of two weeks.

(4)On receipt of the reply, the second and third respondents are directed to pass appropriate orders, within a period of four weeks thereafter.

(5)Till the above said exercise is completed by the respondents and the order is served upon the petitioner, there shall not be any eviction.



With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CSI)

/True Copy/

Sub-Assistant Registrar

To

1. The District Collector,  
District Collector's Office,  
Trichy-1,  
Trichy District.
2. The Commissioner,  
Manachanallur Panchayat Union,  
Manachanallur,  
Trichy District.
3. The Block Development Officer,  
Manachanallur Panchayat Union,  
Manachanallur,  
Trichy District.
4. The Tahsildhar,  
Manachanallur,  
Trichy District.

+One cc to Mr.R.Sundar, Advocate, SR.No.45609

+One cc to The Special Government Pleader, SR.No.46005

skn

RL/7C/3P/SKN/RSK/AR4/27/2/2018

W.P. (MD) No. 2012 of 2018

and

W.M.P (MD) Nos. 2233 and 2234 of 2018