



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 02.02.2018
CORAM
THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MRS.JUSTICE R.THARANI
W.P.(MD).No.2201 of 2018

Krishnakumar

... Petitioner

Vs.

1. The District Collector,
Trichy District.
2. The Tahsildar,
Srirangam Taluk,
Trichy District.
3. The Revenue Inspector,
Manikandam Part,
Srirangam Taluk,
Trichy District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents not to evict the petitioner from the premises comprising Survey No.298, Door No.3/60, situated at Fathima Nagar, Sethurapatti, Trichy District, without following due process of law.

For Petitioner : Mr.B.Jameel Arasu
For R1 to R3 : Mr.D.Muruganantham
Addl. Government Pleader

O R D E R

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

By consent, the writ petition itself is taken up for final disposal, at the stage of admission.

2.Heard, Mr.B.Jameel Arasu, learned counsel appearing for the petitioner and Mr..D.Muruganantham, learned Additional Government Pleader, who takes notice on behalf of the respondents.

3.According to the petitioner, the petitioner is in occupation of the property comprised in Survey No.298, Door No.3/60, situated at Fathima Nagar, Sethurapatti, Trichy District by constructing a dwelling house and residing there for more than 40 years and regularly paying house tax and also obtained electricity



connections. However, the third respondent issued notice on 16.11.2016 as if the petitioner has encroached upon the property and eviction order has also been passed on the very same day. In this regard, the petitioner has given his objections through representation on 30.01.2018. Without considering the said representation, the respondents are trying to throw out the petitioner from the property. Hence, the petitioner has come before this Court for the aforesaid relief.

4.A perusal of the records especially, the revenue records would show that the petitioner is in possession of the property. Even if the petitioner is an encroacher, sufficient opportunity should be given to the petitioner. Show cause notice as well as the eviction order have also been issued on the very same day. Such course of action cannot be allowed.

5.It seems that the orders have been passed hastily only to comply with the order passed by this Court in Writ Petition No.14894 of 2017, wherein the respondents were directed to remove the encroachment and to comply with the process relating to the eviction. No doubt, the order of this Court has to be complied with. However, the respondents cannot slept over the matter and woke up one day and issue both the show cause notice and eviction order on the same day under the guise of complying with the order. Even for complying with the order of this Court, the respondents have to give sufficient time to the petitioner and he should be heard before passing the order of eviction.

6.The petitioner already gave his objections through representation dated 30.01.2018, without considering the said representation the respondents cannot evict the petitioner. Therefore, the third respondent is directed to consider the petitioner's objection within a period of four weeks from the date of receipt of a copy of this order and after giving an opportunity of hearing to the petitioner pass appropriate orders on merits and in accordance with law within a period of four weeks thereafter. During the time of hearing, the petitioner is at liberty to produce all the documents which are in his favour and the respondents shall also refer the original revenue records and pass appropriate orders. Till such order is passed and the copy of the same is served upon the petitioner, the petitioner shall not be disturbed.

7.Accordingly, the writ petition is disposed of, with the above direction. No costs.

Sd/-

Assistant Registrar(P&A)



To

1. The District Collector,
Trichy District.

2. The Tahsildar,
Srirangam Taluk,
Trichy District.

3. The Revenue Inspector,
Manikandam Part,
Srirangam Taluk,
Trichy District.

+1cc to Mr.B.Jameel Arasu, Advocate Sr.No.46067

+1cc to Spl.Government Pleader Sr.No.46236

NS

VB/KKR/SAR4/19/02/2018/3P/6C

W.P. (MD) .No.2201 of 2018

02.02.2018