



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2018
CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) .No.236 of 2018
and
W.M.P. (MD) .No.237 of 2018

P.Sivakumar

... Petitioner

Vs.

1.Tiruchirappalli Corporation,
Rep by its Commissioner,
Tiruchirappalli.

2.The Assistant Commissioner,
Srirangam Division,
Tiruchirappalli Corporation,
Tiruchirappalli.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned notice issued by the 2nd respondent in Na.Ka.No.6399/2017/F1(Sri), dated 06.11.2017 and quash the same.

For Petitioner : Mr.R.Subramanian

For Respondents : Mr.N.S.Karthikeyan
Standing Counsel for
Corporation

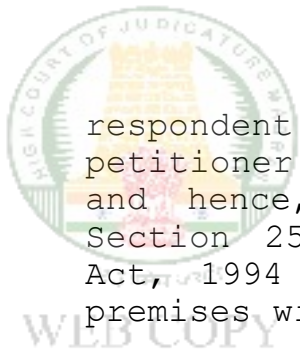
O R D E R

[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.R.Subramanian, learned counsel appearing for the petitioner and Mr.N.S.Karthikeyan, learned Standing counsel appearing for the respondents.

3.The case of the petitioner is that the petitioner is in occupation of the property in Sakthi Nagar in Door No.C2, by putting up a residential house for years together and regularly paying house tax and also obtained electricity connection. However, the



respondent Corporation issued the impugned order as if the petitioner is an encroacher and causing disturbance to the traffic and hence, the second respondent issued impugned notice under Section 258(1) of the Tiruchirappalli City Municipal Corporation Act, 1994 (hereinafter referred to as 'the Act'), to vacate the premises within 7 days from the date of receipt of the said notice.

4.Mr.R.Subramanian, learned counsel appearing for the petitioner would point out that similarly placed persons like the petitioner, challenged the similar impugned order in W.P.(MD) No.21815 of 2017 and this Court by order dated 30.11.2017 quashed the same giving liberty to the respondents to follow-up the due process of law to evict the petitioner.

5.Mr.N.S.Karthikeyan, learned Standing counsel appearing for the respondent Corporation, would submit that pursuant to the orders passed by this Court, notice has been issued under Section 258 (1) of the Act to the petitioner and the same was acknowledged by the petitioner. When that being the position, the question of challenging the impugned order does not arise.

6.When notice under Section 258(1) of the Act has been issued by the respondent Corporation, the question of validity of notice, which is challenged before this Court, does not arise. However, since the said notice has been acknowledged by the petitioner, the petitioner is required to give his reply.

7.Therefore, this Court directs the petitioner to give his reply within a period of four weeks from the date of receipt of a copy of this order. On receipt of such reply, the respondent Corporation shall give an opportunity of hearing to the petitioner and pass appropriate orders on merits and as per law, within a period of 12 weeks thereafter. Till such order is passed and the copy of the same is served upon the petitioner, the petitioner shall not be disturbed.

8.Accordingly, the writ petition is disposed of, with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

+One cc to Mr.R.Subramanian, Advocate, SR.No.41339

+One cc to Mr.N.S.Karthikeyan, Advocate, SR.No.41628

Ns

RL/3C/2P/JC/SAR1/30/1/2018

W.P.(MD).No.236 of 2018

and

W.M.P.(MD).No.237 of 2018