



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2018

CORAM:

WEB COPY

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.P. (MD) .No.2877 of 2018

and

W.M.P. (MD) No.3035 of 2018

S.Sesu

... Petitioner

Vs.

1.The Tirunelveli City Municipal Corporation,
Rep. By the Commissioner,
S.N.High Road,
Tirunelveli City.

2.The Tahsildar,
Palayamkottai Taluk Office,
Tirunelveli District.

... Respondents

PRAYER:This petition is 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 in Na.Ka.No.TP2/2320/2017 dated 27.01.2018 on the file of the Respondent No.1 and quash the same as illegal.

For Petitioner	: Mr.I.Pinaygash
For Respondent No.1	: Mr.Aaiyiram K.Selva Kumar Standing Counsel
For Respondent No.2	: Mr.D.Muruganantham Additional Government Pleader

O R D E R

(Order of this Court was made by T.S.SIVAGNANAM, J)

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

2.Heard Mr.I.Pinaygash, learned counsel appearing for the petitioner, Mr.Aaiyiram K.Selva Kumar, learned Standing counsel appearing for the first respondent and Mr.D.Muruganantham, learned Additional Government Pleader for the second respondent.



3. In this writ petition the petitioner has challenged the notice issued by the first respondent dated 27.01.2018, calling upon the petitioner to vacate from the property, which according to the first respondent, has been encroached by the petitioner.

4. We find that though in the notice there is specific column with regard to the type of encroachment, the same has not been clearly mentioned. Apart from that without issuing show cause notice, the first respondent could not straight away direct the petitioner to vacate the premises. Needless to state that we have not gone into the fact whether the petitioner has encroached or not. Apart from that, we are not inclined to make any observation as regards the petitioner's right to get patta, based on his representation dated 29.01.2018. Since we find that the petitioner has not been given an opportunity to put forth his contention, we are inclined to set aside the impugned notice and issue a direction to the first respondent to issue show cause notice and then proceed in accordance with law.

5. For the above reasons, the writ petition is allowed and the impugned notice dated 27.01.208 issued by the first respondent, is set aside on the above mentioned technical ground alone and the first respondent is directed to issue fresh notice, within a period of one week from the date of receipt of a copy of this order, afford an opportunity of personal hearing to the petitioner to place the documents in support of his contention and after considering the case as projected by the petitioner, the first respondent shall pass an appropriate orders on merits and in accordance with law within a period of two weeks from the date on which, the personal hearing is concluded. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CSIII)

/True Copy/

Sub-Assistant Registrar

To

1. The Commissioner, Tirunelveli City Municipal Corporation,
S.N.High Road, Tirunelveli City.

2. The Tahsildar,
Palayamkottai Taluk Office,
Tirunelveli District.

+One cc to M/s.I.Pinaygash, Advocate, SR.No.48396

+One cc to M/s.Aayiram K.Selvakumar, Advocate, SR.No.48151

mrn/Ns

RL/5C/2P/SV/MMS/SAR2/7/3/2018

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