



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 26.03.2018

CORAM:
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P(MD)No.312 of 2018
and
W.M.P(MD)No.324 of 2018

Nagaiya

... Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Special Officer/Block Development Officer,
Nilakkottai Panchayat Union,
Mattaparai Panchayat,
Nilakottai,
Dindigul District.

3.The Tahsildar,
Nilakkottai Taluk,
Nilakkottai,
Dindigul District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records pertaining to the impugned notice, dated 22.12.2017 issued by the second respondent in his proceedings in Na.Ka.No.3437/2017/Thi3 and quash the same.

For Petitioner

: Mr.N.R.Balaji

For Respondents

: Mr.D.Muruganandham,
Additional Government Pleader.

ORDER

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

Heard Mr.N.R.Balaji, learned counsel appearing for the petitioner and Mr.D.Muruganandham, learned Additional Government Pleader, appearing for the respondents.



the petitioner has encroached into a Government property.

3.The petitioner has challenged the impugned notice on the ground that it is in violation of the principles of natural justice and no opportunity was given to the petitioner. In support of his contention, the learned counsel appearing for the petitioner has placed reliance on the decision of this Court in *S.Veerasamy Vs. State of Tamil Nadu and others* [(2006) 1 MLJ 391], wherein, the third respondent has issued the impugned notice under Section 6 of the Land Encroachment Act, 1905, without issuing a notice under Section 7 of the Act, which is a condition precedent for issuing notice under Section 6 of the Act. It is further submitted that the impugned notice has been issued under the provisions of the Tamil Nadu Panchayat Act.

4.Even assuming it is so, without opportunity and without show-cause notice, the petitioner cannot be affected. Considering the said submission, this Court has granted an interim order, dated 09.01.2018, protecting the possession of the petitioner only in respect of 240 square feet.

5.A report has been given by the Tahsilar, Nilakottai, to the learned Additional Government Pleader, which shows that the lands owned by the petitioner is comprised in Survey No.154/5 and patta has been granted in patta No.203 for an extent of 0.00.66 square meters. The encroachment is an extent of 0.00.24 square meters, which is approximately equivalent to 258 square feet.

6.Considering the fact that the writ petition has been pending before this Court, since January 2018 and the petitioner had been granted a limited relief of protecting an extent of 240 square feet, we are informed that the encroachment is in the nature of a stair case and small construction.

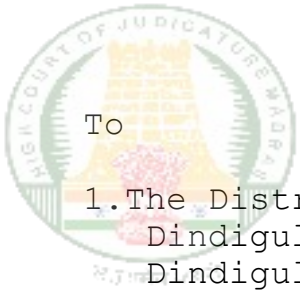
7.Considering the fact that the encroachment is only a meagre extent, we direct the petitioner to remove the stair case and small construction, as pointed out by the respondents, within a period of 30 days from the date of receipt of a copy of this order, failing which, the respondents are entitled to remove the same. If the petitioner refuses to do the same, the respondents may do it departmentally and recover the same with costs.

8.With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar (AD-II)

/True copy/

Sub Assistant Registrar



To

1.The District Collector,
Dindigul District,
Dindigul.

2.The Special Officer/Block Development Officer,
Nilakkottai Panchayat Union,
Mattapparai Panchayat,
Nilakkottai,
Dindigul District.

3.The Tahsildar,
Nilakkottai Taluk,
Nilakkottai,
Dindigul District.

+1cc to Mr.N.R.BALAJI,Advocate, SR.No. 58805

+1cc to M/s.Special Government Pleader,SR.No. 58451

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PS

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