



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P (MD) No.5658 of 2018

and

W.M.P. (MD) No.5549 of 2018

K.Manikandan

... Petitioner

Vs.

1.The Commissioner,
Corporation of Madurai,
Madurai.

2.The Assistant Commissioner,
Corporation of Madurai,
Zone-IV, Madurai.

... 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 relating to the impugned notice No.Na.Ka.Z4A13/E5/1243/2013, dated 14.02.2018 of the second respondent and quash the same as illegal.

For Petitioner : Mr.C.Sundaravadivel
For Respondents : Mr.R.Murali

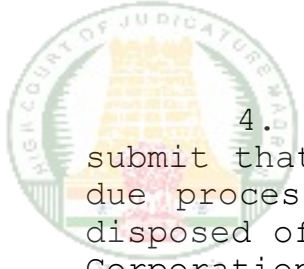
ORDER

(Order of the Court was made by M.SATHYANARAYANAN,J.)

By consent, the Writ Petition itself is taken up for final disposal.

2. Mr.R.Murali, learned Standing Counsel accepts notice on behalf of the respondents.

3. The petitioner claims to have purchased a property through an unregistered sale deed dated 14.07.2007 admeasuring to an extent of 8 cents in Ward No.61, Bharathiar Street, Madurai Town from one M.E.Somu for a sale consideration of Rs.72,000/- (Rupees Seventy Two Thousand only) and according to the petitioner, the property is also subjected to statutory levies and after obtaining necessary licence and permission, he is running an ever-silver utensil making unit.



4. The learned Counsel appearing for the petitioner would submit that since attempts are being made to dispossess him without due process of law, he filed W.P.(MD)No.10709 of 2014 and it was disposed of on 25.07.2017 by directing the Assistant Commissioner of Corporation of Madurai, by taking into consideration the submission made by the learned Standing Counsel appearing for the Madurai Corporation, before passing an order of eviction, notice would be issued to the petitioner.

5. The learned Counsel appearing for the petitioner would submit that though the impugned notice was dated 14.02.2018, the petitioner was called upon to evict the property in question immediately and therefore, it is not strictly in compliance of the above said order and further add that out of the meagre income, he is eking out his livelihood and maintaining his family and in the event of eviction and dispossession, he and his family will put to irreparable hardship and loss.

6. Per contra, the learned Standing Counsel appearing for the Madurai Corporation has drawn the attention of this Court to Section 258 r/w Section 472 of the of Madurai City Municipal Corporation Act and would submit that admittedly, the petitioner claims right, title and possession in respect of the said property through the unregistered sale deed and it cannot be looked into to sustain his claim and the present notice came to be issued strictly in compliance of the order dated 25.07.2017, made in W.P.(MD)No.10708 of 2014 and hence, prays for dismissal of the writ petition.

7. This Court has considered the rival submissions and perused the materials placed before this Court.

8. No doubt, the petitioner had purchased the property in question through the unregistered sale deed and the Department of Industries and Commerce, Government of Tamil Nadu had accorded necessary approval to start a micro manufacturing unit to manufacture ever-silver utensils and taking into consideration the fact that the petitioner is only depending upon the income earned out from the said business as well as his family, this Court treats the impugned notice as show cause notice to which, the petitioner is permitted to submit his response by enclosing relevant and authenticated documents within a period of four weeks from the date of receipt of a copy of this order and upon receipt of the same, the respondents are directed to consider the same on merits and in accordance with law and pass appropriate orders within a further period of four weeks thereafter and communicate the decision taken to the petitioner and till such time, the respondents shall defer further decision to evict the petitioner from the property in question. It is also made clear that the petitioner, till the disposal of the representation by the third respondent, shall not create any third party right in respect of the site and superstructure and shall not alter the physical features in respect of the said property in question.



9. The Writ Petition stands disposed of accordingly. No costs. Consequently, the connected Miscellaneous Petition is closed.

WEB COPY

/True Copy/

Sd/-
Assistant Registrar (T&P)

Sub Assistant Registrar

To

1. The Commissioner,
Corporation of Madurai,
Madurai.
2. The Assistant Commissioner,
Corporation of Madurai,
Zone-IV, Madurai.

+1cc to M/S.R.Murali, Advocate SR.No. 56069

W.P (MD) No. 5658 of 2018
and
W.M.P. (MD) No. 5549 of 2018
16.03.2018

SSL
JM/KK/SAR 1/03.04.2018/3P/4C