



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
AND
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P (MD) No.8113 of 2018
and
W.M.P (MD) No.7696 of 2018

P.Rajendran

... Petitioner

Vs.

1.The Special Officer,
Pallavarayanpatti Panchayat,
Uthamapalayam Panchayat Union,
Uthamapalayam,
Theni District.

2.The Tahsildar,
Uthamapalayam Taluk,
Uthamapalayam,
Theni District.

3.C.Malarkodi

... Respondents

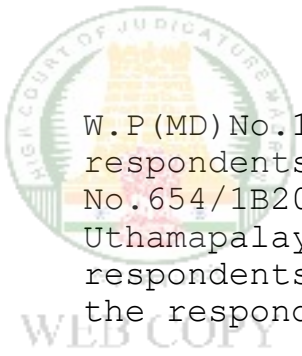
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the first respondent in Na.Ka.No.3910/2017/B3, dated 02.04.2018 issued to the petitioner on 09.04.2018 and quash the same.

For Petitioner	: Mr.R.R.Kannan
For R - 1	: Mr.V.R.Shanmuganathan, Special Government Pleader.
For R - 2	: Mr.M.Jeya Kumar, Additional Government Pleader.

ORDER

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

The petitioner has filed the above writ petition to issue a Writ of Writ of Certiorari, to call for the records relating to the impugned order passed by the first respondent, dated 02.04.2018 and to quash the same.



W.P(MD)No.12914 of 2014, to issue a Writ of Mandamus, forbearing the respondents 4 and 5 from putting up any construction in Survey No.654/1B20, Pallavarayanpatti Hamlet, Pannaipuram Village, Uthamapalayam Taluk, Theni District and consequently direct the respondents 1 to 3 to remove the hollow block wall constructed by the respondents 4 and 5 in the said public street.

3.This Court, by order, dated 03.08.2017, disposed of the Writ Petition by directing the third respondent therein to consider the petitioner therein/third respondent herein representation, dated 13.06.2014 and if the third respondent therein finds that any encroachment has been committed on a public street, the third respondent therein was directed to remove, after due notice to the respondents 4 and 5 therein and other encroachers if any. Now, the first respondent herein has passed the impugned order, dated 02.04.2018 finding that the petitioner had encroached the property in Survey No.654/1B 20 and further called upon the petitioner to remove the encroachment within a period of one week. Challenging the same, the petitioner has filed the above Writ Petition.

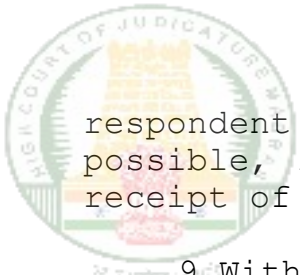
4.The learned counsel appearing for the petitioner submitted that inspite of the direction given by this Court on an earlier occasion to take a decision, after issuing notice to the petitioner herein as well as the fifth respondent in W.P(MD)No.12914 of 2014, the first respondent had passed the impugned order without issuing any notice to the petitioner.

5.It is brought to the notice of this Court that the petitioner has given his reply, dated 10.04.2018 to the first respondent. However, the first respondent has not considered the same so far.

6.Mr.V.R.Shanmuganathan, learned Special Government Pleader takes notice for the first respondent and Mr.M.Jeya Kumar, learned Additional Government Pleader takes notice for the second respondent.

7.The learned Special Government Pleader appearing for the first respondent submitted that the first respondent may be directed to consider the impugned order as notice and further the first respondent may be directed to pass orders, after considering the reply, dated 10.04.2018 given by the petitioner in accordance with law.

8.Since the first respondent has passed the impugned order without giving notice to the petitioner, we are of the considered view that an opportunity should be given to the petitioner, as directed by the Division Bench of this Court in W.P(MD)No.12914 of 2014. Accordingly, the impugned order, dated 02.04.2018 issued by the first respondent shall be construed as a notice and the reply, dated 10.04.2018 given by the petitioner should be considered by the first respondent and suitable orders may be passed, after giving an opportunity of personal hearing to the petitioner. The first



respondent is directed to complete the exercise as expeditiously as possible, in any event, not less than four weeks from the date of receipt of a copy of this order.

9. With these observations, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Special Officer,
Pallavarayanpatti Panchayat,
Uthamapalayam Panchayat Union,
Uthamapalayam,
Theni District.

2. The Tahsildar,
Uthamapalayam Taluk,
Uthamapalayam,
Theni District.

+1cc to M/S.R.R.Kannan, Advocate SR.No. 61135

+1cc to Special Government Pleader, SR.No. 61421

W.P (MD) No. 8113 of 2018
13.04.2018

ps

JM/SV MMS/SAR 1/25.04.2018/3P/5C