



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.05.2018

CORAM:

THE HONOURABLE Mr.JUSTICE M.V.MURALIDARAN
AND
THE HONOURABLE Mrs.JUSTICE T.KRISHNAVALLI

W.P.(MD)No.11639 of 2018
and
W.M.P.(MD)No.10594 of 2018

Pakkir Mohammed

...Petitioner

-Vs-

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Revenue Divisional Officer,
Tirunelveli Division,
Tirunelveli.

3.The Commissioner,
Tirunelveli Corporation,
Tirunelveli.

4.The Tahsildar,
Taluk Office,
Palayamkottai.

5.Mydeensha @ Ibrahim Pitchai

...Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from interfering in the land in S.No.3056 in which the house and shop bearing Door No.1E, 2E, 3E, 4E, 5E are situated in Kattu Sekkadi 1st Street, situated at Ward 4, (AV) Block 31, T.S.No.58 admeasuring 54 cents in Melappalayam, Palayamkottai Taluk, Tirunelveli District without due process of law.

For Petitioner : Mr.T.Selvan

For R1 to R4 : Mr.C.Ramar,
Additional Government Pleader.

ORDER

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

The petitioner seeks for a Writ of Mandamus, to forbear the respondents from interfering in the land in S.No.3056 in which the house and shop bearing Door Nos.1E, 2E, 3E, 4E and 5E are situated in Kattu Sekkadi 1st Street, situated at Ward 4, (AV) Block 31, T.S.No.58 admeasuring 54 cents in Melappalayam, Palayamkottai Taluk, Tirunelveli District without due process of law.

2.Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader, who takes notice on behalf of the respondents 1 to 4. By consent of both parties, the writ petition is taken up for final disposal at the stage of admission itself.

3.The fifth respondent herein has already approached this Court by way of writ petition in W.P.(MD)No.2391 of 2017 and this Court by considering his request, has passed the following order in the said writ petition:-

"2.The land in question belongs to the fifth respondent. The fifth respondent is the competent authority to take action in the matter. This Court therefore, directs the fifth respondent to take action for removal of the encroachment in question after following the statutory procedure. The seventh respondent shall be given due notice and opportunity of hearing. The fifth respondent shall complete the entire exercise within a period of three months from the date of receipt of a copy of this order."

4.The Hon'ble Division Bench of this Court has already issued a direction to the authorities concerned to remove the encroachment in question after following the statutory procedure. This Court has also given a specific direction to the respondents that the seventh respondent / petitioner herein shall be given due notice and opportunity of hearing and complete the said exercise within a period of three months. Though this Court directed as above, as on date, no notice was issued to the petitioner by the authorities. Hence, the petitioner has approached this Court with the present writ petition.

5.In view of the above, this Court directs the respondents 1 to 4 to follow the procedure as per the order passed by this Court in the above said writ petition filed by the fifth respondent herein and take action within the time stipulated therein from the date of receipt of a copy of this order. Till such time, the respondents 1 to 4 are directed not to take any coercive action against the petitioner.



6. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-II)

/True Copy/

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Sub Assistant Registrar

To

1. The District Collector,
Tirunelveli District,
Tirunelveli.
2. The Revenue Divisional Officer,
Tirunelveli Division,
Tirunelveli.
3. The Commissioner,
Tirunelveli Corporation,
Tirunelveli.
4. The Tahsildar,
Taluk Office,
Palayamkottai.

W.P. (MD) No. 11639 of 2018

Myr/ta

AM/SKN RSK/SAR 4/07.06.2018/3P/5C