



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P (MD) No.22299 of 2018

and W.M.P. (MD) Nos.20212 and 20213 of 2018

Rukmani Ammal

... Petitioner

vs.

1. The Commissioner,
Madurai City Municipal Corporation,
Madurai District.

2. The Tahsildar
Madurai South Taluk,
Madurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records relating to the notice dated 17.10.2018 issued by the Commissioner, Madurai City Municipal Corporation, Madurai the 1st respondent herein and quash the same.

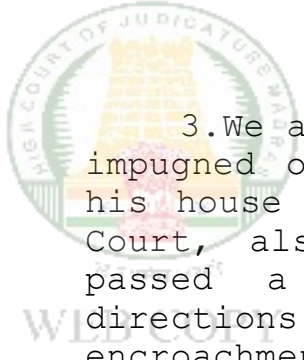
For Petitioner : Mr.C.Meenakshi Rama Prabhu
For Respondents : Mr.J.Gunaseelan Muthiah for R1
Mr.V.Anand
Government Advocate for R2

O R D E R

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

The present writ petition is directed against the impugned order dated 17.10.2018 issued by the first respondent directing the petitioner to evict and remove the encroachment bearing D.No.4/1 at Ward No.56 at Anuppanadi Cross Road, Chinna Anuppanadi, Chinthamani, Madurai District, on the ground that the petitioner was not given opportunity to give her explanation by the first respondent.

2.It is submitted that when the petitioner has been in peaceful possession and enjoyment of the place in question, without considering that the Panaiyur Vaikkal is not having enough water and it is only a drainage, the first respondent ought not to have taken coercive steps to remove the petitioner.



3. We are not able to find any merits in the writ petition. The impugned order clearly indicates that the petitioner has put up his house bearing D.No.4/1 only in Panaiyur Water Channel. This Court, also taking suo motu action in W.P.(MD) No.19760/2017, passed a detailed order, dated 28.11.2017 giving various directions to the District Administration to remove all the encroachment. Pursuant thereto, the first respondent has issued various orders. This Court also, after entertaining similar writ petitions, dismissed the same.

4. In the present writ petition, the learned counsel for the petitioner submitted that in view of Diwali festival, the petitioner may be given reasonable time to give her explanation and thereafter they can proceed against the petitioner.

5. Learned Additional Government Pleader, agreeing to the said submission, fairly submitted that the impugned proceedings may be treated as show cause notice calling upon the petitioner to give explanation.

6. Accordingly, the petitioner is directed to treat the impugned notice as a show cause notice and the petitioner is given two weeks time to give her explanation. The respondents, on receipt of such reply from the petitioner, shall conduct a survey in the presence of the petitioner and if the survey report shows that the petitioner has encroached into the Panaiyur Channel, the respondents are directed to take action in accordance with law.

7. The Writ Petition is disposed of with the above directions. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(Records)

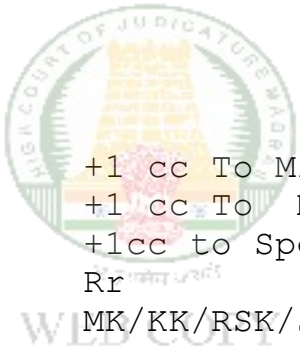
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Sub Assistant Registrar(CS-II)

To

1. The Commissioner,
Madurai City Municipal Corporation,
Madurai District.

2. The Tahsildar
Madurai South Taluk,
Madurai District.



+1 cc To Mr.C.Meenakshi Rama Prabhu, ADVOCATE IN SR NO.93707

+1 cc To Mr.J.Gunaseelan Muthiah, ADVOCATE IN SR NO.93994

+1cc to Special Government Pleader Sr.No.94252

Rr

MK/KK/RSK/SAR 2/28.12.2018/3P/6C

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